ROMANÆ HISTORIAE ANTHOLOGIA RECOGNITA ET AVCTA.

AN ENGLISH EXPOSITION OF THE ROMAN ANTIquities, wherein many Roman & Englisſh offices are paralleld *and divers obſcure phraſes explained*

For the vſe of ABINGDON *Schoole.*

Newly revited and inlarged by the *Author.*

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VIRO

COLENDISSIMO

D° IOANNI YOVNG SS. THEOLOGIÆ DOCTORI, & Ecclesiæ WINTONIENSIS *Decano Ornatissimo.*

Εὐδαιμονέστατα διάγειν

Vir Ornatissime,

NON liberi quàm libri pluribus exponi periculis solent, cùm primùm prodeant in lucem: vtrisq; pariter opus est tutelari aliquo numine obstetricante. Hoc olim sensit Anthologia hæc nostra primùm edita: idem sentit eadem in hodierna duarum sectionum, & capitulorum aliquot superfœtatione. Nacta igitur secundas suas cogitationes te ambit Patronum, qui facem aliquam mihi in his antiquitatibus obambulanti prætulisti, & quem multum fuisse in

ſtudijs meis promovendis, palam, & ſub Dio prædico. Videbis me aliquoties alium à doctiſſimis viris, & ab illorum ſententijs alienum: Veritate enim præponderante, nullus apud me Plato, nullus erit Ariſtoteles, (nolo ego iſtiuſmodi inſaniam inſanire, ytcunque ſplendidam & *autoritativam:*) Cæterùm tacitus hoc facio, & apud me, citra omnem velitationis pulverem, rarò admodum quovis protracto in arenam, ne videar ex illorum numero, qui ex nuda pugna cum adverſario aliquo eximio commiſſa, gloriolæ neſcio quos fumos ſibi pollicentur. Hæc ſcribendi ratio ſi tibi placeat, alios non moror, quibus ſi ſimplex veritas non arriſerit, cum magnis nominibus deviare per me licebit. Vale, & meas Muſas, vt ſoles, ama; illæ, quod jam faciunt, te colent ſemper, & omni obſequio proſequentur. *Datum Abindoniæ 14. Calend. Decemb. Anno χεσσνια.* 1622.

Dignitati tuæ

multiplici nexu mancipatus,

THO. GODWYN.

BENEVOLO LECTORI.

Ἐυπράττειν, Ἐυκρίνειν.

MIRARIS forſan & redarguis, quòd nondum deſtitum ab his elementaribus, quaſi vita mihi vitalis foret, in his minutijs integram meam ætatem eludere, & votum vnicum in his prævijs ſtudijs ſenium contrahere. Qui ſic ſentis, nec me ſatis nôris; nec ludi literarij (pone lenocinium nominis, moletrinæ dices) iniquas leges, aut miſerias quotidianas, & omnigenas. Sentio ego me in piſtrinum damnatum, & cogita tu hanc Anthologiam è piſtrino prodeuntem. Si minus placeat, illud dabis puerorum circumſtrepentium ſuſurris, inter quos nata eſt: Si placeat, illud debes puerorum crebris interrogatiunculis, quarum enodationes, me vel invitum indies reducunt ad hæc ſtudia, quæ alias jamdudum juſſiſſem ſuas ſibi res habere; Sic me amet Theologia, ſacratior mihi pagina in votis, cùm hæc in manibus, ludo cogente. Interim te monitum velim, quæ acceſſêre, non vulgaria, aut obvia; nec quæ vulgus hominum, aut docuit, aut didicit. Vale.

A ſhort table ſhewing the argument of every Booke and Section.

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- 1. Of the chiefe parts thereof.
- 2. Of the generall diuiſions of the Roman people.

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- 2. Of their Roman Prieſts with ſome particular Gods, together with their rites in mariages and burialls.
- 3. Of the Roman games, which endeth with their manner of taking meat.

3 Of the ſtate politicall. Sect.
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- 4. Of all thoſe lawes which I haue obſerued to be touched in Tully his orations.

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- 1. Of their manner obſerued in eſtabliſhing their leagues.
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THE ROMANE ANTIQVITIES

Expounded in Engliſh.

LIB. 1. SECT. 1.

Of the chiefe parts of the Citie.

CAP. 1.

De modo condendarum, delendarumq́; vrbium.

BEfore we handle the deſcription of the particular places in the Romane Citie, it will not be amiſſe to premiſe ſome what concerning the ancient manner of building and raizing Cities. In the building of Cities, the founders thereof did vſually conſult with their Gods in their *Augurall* obſervations; & [a] this courſe was obſerved by *Romulus* himſelfe, in the firſt foũdation of *Rome*; After their *Augurall* obſervations, they marked out the place where the wall of the Citie ſhould be built, by plowing vp the ground, & becauſe they left that ſpace of ground vnplowed, lightly lifting the plough over it, where they appoin-

[a] M. Tullius lib. 1. de diuinat.

pointed the gate of the city, thence *a portando*, from carying and lifting the plough, they called the gate *Porta*. This cuſtome is fully deſcribed by [b] *Cato*: *Captato augurio, qui vrbem novam condebat, tauro & vaccâ arabat: vbi arâſſet murum faciebat, vbi portam volebat eſſe, aratrum tollebat & portam vocabat.* *Virgil* alſo alludeth vnto it,

[b] M. Cato in fragm.

Interea Æneas vrbem deſignat aratro.

The maner hereof was, that he who held the plough, did caſt vp the skirt of his gowne on the right ſhoulder, & gird himſelfe about, either becauſe this was the vſuall habit of ſuch who performed holy rites; in the number of which this preſent action was reputed; or that he might the more readilie addreſſe himſelfe to the buſineſſe; or laſtly, that hee might ſymbolically by that pacifical habit intimate, that the flouriſhing eſtate of a Citie is not ſo much preſerved by warre, as by peace. Hence *Ovid, lib. 4. Faſtorum.*

Ipſe tenens ſtivam, deſignat mœnia ſulco,
Alba ingum niveo cum bove vacca tulit.

[c] Like cuſtome was vſed alſo in the razing or demoliſhing of cities, when they had beene vanquiſhed by the enemies. Which obſervation giveth light to that of *Horace.* Lib. 1. Od. 16.

[c] Cæl. Rhod. antiq. lib. 26. cap. 5.

——— vrbibus vltima
Stetêre cauſa, cùm perirent
Fundatus, imprimeretque muris
Hoſtile aratrum exercitus inſolens.

CAP. 2.

De monte Palatino.

TOuching the name of *Rome*, from what occaſion the citie ſhould be ſo denominated, diverſe authors conceit diverſlie. [d] Some are of opinion, that this citie was built long before *Æneas* came out of *Troy*, & was then called by the

[d] Vid. Anton. Conſtantium in Ovid. Faſt. lib. 1.

the Latines *Valentia*, which was a name of ſtrength, whence *Evander* comming into *Italy*, called it *Roma* from *ἰσχὺς Robur*. Others ſay, it was ſo called from *Aſcanius* his daughter, whoſe name was *Roma*. But it is agreed vpon by moſt Writers, that the Founders were *Romulus* & *Remus*, & from *Romulus* it was called *Roma*, not *Romula*, becauſe the diminitiue, *Romula*, might ominate leſſe proſperity thereunto. [e] Some ſay, that they built it in forme of a quadrangle, vpon one only hill, called *Mons Palatinus*. [f] Others ſay, that *Fabius* left *Rome* as it was firſt built, with the fields thereof, painted in the forme of a boy, the river *Tiber* being the ſtring thereof. Vpon this *Palatine* hill, was alwaies the ſeat of the Romane Empire, which from the hill tooke the denomination of a **Pallace**: & hence all [g] ſtately buildings which we call **Pallaces**, took their name, *Palatia*. This hill had his firſt appellation [h] *Balatinus*, *à balando*, from the bellowing of cattle paſturing there in former times, and afterwards the firſt letter being changed, it was called *Palatinus*, by the figure *ἀλλοιοχῆ*. *Virgil* ſeemeth to be of opinion, that the hill was called *Palatinus*, by *Evander* in remembrance of his grandfather, whoſe name was *Pallas*, according to that

----Poſuere in montibus vrbem,
Pallantis proavi de nomine Palantea. Virg. Æneid. l. 8.

In proceſſe of time ſix other hills by ſeuerall Kings of *Rome* were added; whereby the city, and the *Pomerium*, that is, the territories of the city were enlarged: and *Rome* called *Vrbs ſeptemcollis, id eſt*, the city vpon ſeuen hills.

Sed qua de ſeptem totum circumſpicit orbem
Montibus, imperij Roma deúmq; locus. Ovid. Triſt. lib. 1. Eleg. 4.

Vpon this *Palatine* hill alſo ſtood the *Aſylum*, or ſanctuarie of refuge, which *Romulus* opened [i] in imitation of *Cadmus*, who at the building of *Thebes* was ſaid to haue opened a ſanctuarie of refuge, whether whatſoeuer malefactor could eſcape, were he bond or free, he was not to be puniſhed. It was

[e] Roſin. antiq. lib 1. cap. 2.
[f] Sigon. de iur. Rom. lib. 1. c. 2.
[g] Roſin. antiq. lib. 1. cap. 4.
[h] Vid. Seruium in Æneid. lib. 8.
[i] Alex. Gen. dier. l. 3. c. 20. vbi plura lectione digna de Aſylis,

much like vnto a custome of the people in the Citie *Croton*, who flying vnto the altars of their Gods, obtained the forgiueneſſe of faults not voluntarily committed. Whence theſe two phraſes are expounded alike, *Ad te tanquàm ad Aſylum*, and, *Ad te tanquàm ad aram confugimus*, *id eſt*, wee fly vnto thee as our only refuge.

Cap. 3.

De monte Capitolino.

THis hill was famous for three names: it was called *Capitolium*, *mons Tarpeius*, and *mons Saturni*. It was named *Saturnes* hill [k] from the heatheniſh God *Saturne*, who vouchſafed to vndertake the protection of that place. It was named the *Tarpeian* hill [l] from *Tarpeia* one of the Veſtall Nuns, daughter to the chiefe keeper of the Capitoll, (this hill being the caſtle of defence for the whole towne) For this *Tarpeia* betrayed the Capitoll into the enimies hands, bargaining to haue the golden bracelets vpon her enimies left hands, for this her treaſon. Now the enemies when they were admitted in, did caſt not their bracelets alone, but their bucklers alſo vpon her, through the weight whereof ſhe was preſſed to death: vpon which occaſion the whole hill was afterwards called, the *Tarpeian* mount; but more principally a certaine rocke of that hill called *Tarpeia rupes*, from whence maleſactors were ſundry times tumbled headlong. The fame was likewiſe called the *Capitoll*, becauſe when the foundation of a certaine Temple, built in the honour of *Iupiter* was laide; a mans head, full freſh and liuely, as if it had beene lately buried, [m] yea hot blood iſſuing out of it, was found there. [n] *Arnobius* ſaith, that the name of this man being aliue was *Tolus*, and hence from *Caput* and *Tolus*, the whole hill was called *Capitolium*.

k Roſin. antiq. lib. 1. c. 5.

l Plutarch. in Romulo.

2.

3.

m Dion. Halicar. lib. 4.

n Lipſius de magnitud. Rom. cap. 5.

Cap.

Cap. 4.

De colle Quirinali.

THis hill being in former time called *Agonalis*, then began to bee called *Quirinalis*, when certaine *Sabines*, called in Latine *Curetes*, came and inhabited there, (truce being made betweene the *Romanes* and the *Sabines*:) though ſome would therefore haue it named *Quirinalis*, becauſe there was a Temple erected in the honour of *Romulus*, called alſo *Quirinus*. It was called in the time of the Emperours *mons Caballus*, that is, the horſe-hill, taking its denomination from two marble ſtatues of *Alexander* taming his horſe *Bucephalus*: which ſtatues *Conſtantine* the Emperour brought to *Rome*, and placed them in the midſt of certaine bathes, which he made vpō this hill. There doe appeare in this hill three riſings, or hillocks; the one being called *Salutaris*, the other *Martialis*, and the third *Latiaris*. All this may be collected out of * *Feſtus*.

* Antiq. Rom. l. 1. cap. 6.

Cap. 5.

De monte Cœlio.

THis hill hath his name from a certaine ? Captaine of *Hetruria*, which aſſiſted *Romulus* againſt the *Sabines*. On this hill, King *Tullus Hoſtilius* erected ſtately edifices, which for a time ſerued as his Palace: but afterward they became the chiefe Coūcell-houſe, whether the *Senatours* aſſembled themſelues, for the determining of State-matters: and becauſe this *Curia*, did farre exceed all others, therefore Authors many times vſe this word ? *Curia* ſimply, without any adiunction, to ſignifie *Curiam Hoſtiliam*, as if there were no other. It much reſembleth our Priuy-councell

? Alex. Gen. dier. l. 6. c. 11.

? Alex. Gen. dier. l. 1. c. 16.

Chamber, in reſpect that none might ſit there, but only *Senatours*; whereas in the court-houſe, which *Pompey* built) being therefore called *Curia Pompeia*) [r] other City Magiſtrats were admitted amongſt the *Senators*: & in *Curia Iulia*, *id eſt*, the Court-houſe which *Iulius* made, were examined [ſ] forreigne matters, as Embaſſages: but in *Curiâ Hoſtiliâ* domeſticall matters onely were treated of, and that onely by the *Senatours*. [t] At this preſent time, this hill is beautified with many Chriſtian Churches, as the Churches of S. *Stephen*, S. *Paul*, and S. *Iohn*, our Saviours Hoſpitall, &c. [u] It was alſo called *Mons Querculanus*, from the abundance of oakes growing there.

[r] Roſin. antiq. lib. 7. c. 6.

[ſ] Roſin. Ibid.

[t] Munſter. in ſua Coſmog. lib. 2. cap. 9.

[u] Alex. Gen. dier. l. 6. c. 11.

Cap. 6.

De monte Eſquilino.

THis hill was ſo named *quaſi* [x] *excubinus ab excubis*, *id eſt*, from the night watching, which *Romulus* did vndertake vpon that, ſomewhat diſtruſting the fidelity of the *Sabines*, in the beginning of their league. In this hill there were three hillockes named, *Ciſpius*, *Oppius*, and *Septimius*.

[x] Roſin. antiq. l. 1. cap. 8.

Cap. 7.

De monte Aventino.

THe *Aventine* mount, tooke his name [a] from *Aventinus*, a certaine King of *Albanum*, which was there buried. Vpon this hill ſtood *Hercules* his Altar, and certaine Temples conſecrated to *Iuno*, *Diana*, *Minerva*, *Lucina*, and *Murcia*, *id eſt*, *Venus*: whence the hill hath ſometimes beene called *Dianæ* her hill, and *mons Murcius*. Vpon [b] this Mount, *Remus* would haue built *Rome*, and therefore it was called *Remonius mons*: but ſince, it hath beene called *Mons Rig-*

[a] Alex. Gen. dier. l. 6. c. 11.

[b] Plutarch. in Romulo.

Rignarius, as it appeareth by *Plut.* in the ſame place. It had moreouer the name of the *Holy Mount*, being called in Latine *Mons ſacer*.

Cap. 8.

De monte Viminali.

BEcauſe of the abundance of wicker twigs, which did grow vpon this hill, it was called *Mons viminalis*, *vimen* ſignifying a twigge or ozier. I am not ignorant, that ſome would haue this hill to be named *Viminalis*, from *Iupiter Vminneus*, whereas *Iupiter* himſelfe was named *Viminens* from this hill, becauſe he had here many altars erected in the honour of him. Both this hill, and *Iupiter*, were called *Fagutales*, from *ſylua fagea*, *id eſt*, a cops of Beech-trees, which did grow thereupon. *Vid. Roſin. Antiq. lib. 1. cap 9.*

Cap. 9.

De tribus collibus adiectis.

THree [c] other hills there were, which in proceſſe of time were added vnto the City; which partly becauſe they were not included within the *Pomerium* ſo ſoone as the other, but chiefely becauſe they were not of ſuch note: therefore *Rome* retained the name *Septi-collis*. The firſt of thoſe hills was called *Collis hortulorum*, *id eſt*, the hill of Gardens, ſo tearmed becauſe of the many gardens neere adioyning. [d] Here was the *Circus*, or the ſhew place of the ſtrumpet *Flora*, which made the people of *Rome* heire to thoſe goods which ſhee had gotten by proſtituting her body to young Gentlemen, leauing alſo a certaine ſumme of mony to procure a celebration of her birth day: which becauſe of her infamie, the people ſhaming to doe, they feigned her to bee the

[c] Roſin. Ant. lib. 1. cap. 11.

[d] Barthol. Latomus in Verrin. Orat. 7.

the Goddesse of flowers, and that she must be first appeased, by sports and plaies, performed in the honour of her, before the trees and fruits of the earth would prosper; [e] and that they might gaine the better credit vnto this their fable, they adde further, that she was once called *Chloris*, and was married vnto *Zephyrus*, from whom by way of dowry shee receiued power ouer the flowers. The second was called *Ianiculus*, from *Ianus* that two-faced God: who, as writers testifie, was there buried. It did lye beyond the riuer *Tiber*, and hath now changed its name, being called from the yellow sands, *Mons aureus*, and through negligence of the Printer, *Montorius*, *id est*, the Golden Mountaine. The third was famous for the many diuinations, and propheſies, vttered vpon it, and thence was it named *Vaticanus* from *Vaticinium*, a fore-telling. [f] It is at this time famous for a Library in it, called *Bibliotheca Vaticana*.

[e] Lactant. de fals. relig. lib. 1. cap. 20.

[f] Munster in sua Cosmog. lib. 2. cap. 8.

Cap. 10.

De Foro Romano.

Forum hath diuers acceptions: some times it is taken for a place of negotiation, or marchandising, which wee call a **market place**: and beeing taken in this sense, it hath commonly some adiectiue ioyned with it, as *Forum boarium*, the beast market, *Forum piscarium*, the fish market, *Olitorium forum*, the hearb market: other times it is take̅ for any place, whereſoeuer the chiefe gouernour of a Province doth conuocate his people together, there to giue iudgment, according to the course in law: whence a man is said, *Forum agere*, [g] when hee keepes the **assises**, and *Forum indicere*, when hee appointeth the place where the **Assises** shall bee kept. Thirdly, it is taken for a place, where controuersies in law are iudicially determined, and Orations are had vnto the people. At first, of this sort were only three, *Romanum*, *Iuli-*

[g] Hubertus in Cic. lib. 3. ep. fam. 6.

anum

tum, & *Augustum*, as is clearly evidenced by that of *Martial*.

Atque erit in triplici par mihi nemo foro.

Afterward the number was increased to fixe distinct *Forums*: one called *Forum Iulium*, because it was built by *Iulius Cæsar*. A second was added by *Octavius Augustus*, called therefore *Augusti Forum*. The third *Forum*, was founded by *Domitian* the Emperour: but by reason of his sudden death, *Nerva* had the finishing thereof. It had the name of *Forum Transitorium*, the transitorie *Forum*, because there was *Transitus, id est*, a way or passage through it into three severall market places. The same *Martial* calleth sometimes [h] *Forum Palladium*, because in the middle thereof a Temple was erected in the honour of *Minerva*. A fourth was added by the Emperour *Traianus*, wherein was erected a stately columne or pillar 140 cubits high, having all the noble exploits performed by *Traianus* engraven in it: another was called *Salustij Forum*, because *Salust* bought it with divers Gardens adioyning, which since haue beene called *horti Salustini*. The last *Forum*, which indeed was first built, and in all respects excelled the rest, was called *Forum Romanum*, and *Forum vetus*, or by way of excellency the *Forum*, as if there were no other *Forums*: where we must vnderstand, that as often as *Forum* is vsed in this latter sense, namely for a pleading place, it is so vsed figuratiuely, by the figure Synecdoche: for in truth the pleading place, wherein Orations were had, was but one part of the *Forum Romanum*, namely that **Chappell**, or great building, which they called *Rostra*. [i] Round about this *Forum Romanum*, were built certaine trades-mens shoppes, which they tearmed *Tabernæ*, and also other stately buildings, called *Basilicæ Pauli*. Here was the *Comitium*, or Hall of Iustice; the *Rostra, id est*, the Oratours Pulpit; *Saturnes* Sanctuarie, or the common treasure house; and *Castors* Temple: of all which in their order.

[h] Lipsius de magnitud. Rom. l. 3. c. 7.

[i] Henr. Salmuth. in Pancirolli lib. rerum deperdit. cap. de basil. & taber.

the Goddesse of flowers, and that she must be first appeased, by sports and plaies, performed in the honour of her, before the trees and fruits of the earth would prosper; [e] and that they might gaine the better credit vnto this their fable, they adde further, that she was once called *Chloris*, and was married vnto *Zephyrus*, from whom by way of dowry shee receiued power ouer the flowers. The second was called *Ianiculus*, from *Ianus* that two-faced God: who, as writers testifie, was there buried. It did lye beyond the riuer *Tiber*, and hath now changed its name, being called from the yellow sands, *Mons aureus*, and through negligence of the Printer, *Montorius*, *id est*, the Golden Mountaine. The third was famous for the many diuinations, and propheſies, vttered vpon it, and thence was it named *Vaticanus* from *Vaticinium*, a fore-telling. [f] It is at this time famous for a Library in it, called *Bibliotheca Vaticana*.

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tum, & *Auguſtum*, as is clearly evidenced by that of *Martial*.

Atque erit in triplici par mihi nemo foro.

Afterward the number was increaſed to ſixe diſtinct *Forums*: one called *Forum Iulium*, becauſe it was built by *Iulius Caſar*. A ſecond was added by *Octavius Auguſtus*, called therefore *Auguſti Forum*. The third *Forum*, was founded by *Domitian* the Emperour: but by reaſon of his ſudden death, *Nerva* had the finiſhing thereof. It had the name of *Forum Tranſitorium*, the tranſitorie *Forum*, becauſe there was *Tranſitus*, *id eſt*, a way or paſſage through it into three ſeverall market places. The ſame *Martial* calleth ſometimes [h] *Forum Palladium*, becauſe in the middle thereof a Temple was erected in the honour of *Minerva*. A fourth was added by the Emperour *Traianus*, wherein was erected a ſtately columne or pillar 140 cubits high, having all the noble exploits performed by *Traianus* engraven in it: another was called *Saluſtij Forum*, becauſe *Saluſt* bought it with divers Gardens adioyning, which ſince haue beene called *horti Saluſtini*. The laſt *Forum*, which indeed was firſt built, and in all reſpects excelled the reſt, was called *Forum Romanum*, and *Forum vetus*, or by way of excellency the *Forum*, as if there were no other *Forum*: where we muſt vnderſtand, that as often as *Forum* is vſed in this latter ſenſe, namely for a pleading place, it is ſo vſed figuratiuely, by the figure Synecdoche: for in truth the pleading place, wherein Orations were had, was but one part of the *Forum Romanum*, namely that Chappell, or great building, which they called *Roſtra*. [i] Round about this *Forum Romanum*, were built certaine trades-mens ſhoppes, which they tearmed *Tabernæ*, and alſo other ſtately buildings, called *Baſilica Pauli*. Here was the *Comitium*, or Hall of Iuſtice; the *Roſtra*, *id eſt*, the Oratours Pulpit; *Saturnes* Sanctuarie, or the common treaſure houſe; and *Caſtors* Temple: of all which in their order.

h Lipſius de magnitud. Rom. l. 3. c. 7.

i Henr. Salmuth. in Pancirolli lib. rerum deperdit. cap. de baſil. & taber.

Cap. II.

De Basilicis.

Basilica were vpper buildings, of great state and much cost, being supported with *Pila*, *id est*, flat-sided pillars; and hauing vnderneath them walkes, much resembling our Cloisters, saving that the *Intercolumnia*, or space betweene the pillars lay open vnto the very ground. That they were vpper buildings may bee collected by the custome of many men, which were wont to walke vnder these Basilicall buildings, and therefore were called, *Subbasilicani* by *Plautus*. The vse of these were principally for the [k] Iudges to sit in iudgement: but in their absence it was lawfull for Marchants to deale in their businesses. Those of chiefe note were three, thus named, *Pauli*, *Porcia*, and *Iulia*.

[k] Sigon. de iudicijs lib. 1. cap. 18.

Cap. 12.

De Comitijs.

[l] *Comitium* was a part of the *Forum Romanum*, being a great large hall of iustice, which for long time was open at the top, hauing no covering, and for that reason the assemblies were often dissolued in rainy, or vnseasonable weather. In it stood the *Tribunall*, being a place erected vp on high in forme of our pulpits, but many degrees larger, and in the middest thereof, the *Sella Curulis*, *id est*, the Ivory chaire, from whence the chief Magistrate administred Iustice; other inferior Magistrats sitting on benches on each side, which were called *Subsellia*, because they were lower then the Tribunall. Those which sate vpō these benches had power *cognoscere*, but not *pronuntiare*; much like to our Iustices at Assises, which may examine or informe against a male-

[l] Sig. de iud. lib. 1. cap. 7.

malefactor, but not condemne him. Where wee may obserue, the difference betweene *Comitium*, signifying such an edifice, or building, and *Comitia*, signifying the Romane assemblies: both being called *à coeundo*. This hall was manie times called by the name of *Puteal Libonis*. The reason of which name is rendred thus by [m] some. That in this *Comitium*, *Attius Navius* did once with a razor cut in two a whetstone, and in memory thereof, his statue was erected, with an hat vpon his head, for *Puteal*, properly doth signify the cover of a well, but in a large acception, it signifieth a broad brimmed hat, as *Calius Rodiginus* noteth in the same place. [n] *Cicero* toucheth this. *Cotem illam, & nouaculam defossam in Comitio, supraq; impositum Puteal accepimus.* But why it should bee called, *Puteal Libonis*, is yet doubtfull, except happely *Libo* was the first erecter of this statue. That it was a common court, and knowne place of iustice, *Horace* witnesseth. *Roscius orabat, sibi adesses ad puteal cras,*

[m] Cæl. Rhod. lib. 10. c. 17.

[n] Cic. de diuinat.

Cap. 13.

De Rostris

NExt to the *Comitium* stood the *Rostra*, a goodly faire edifice, in manner of the body of a Cathedrall Church. In it stood an Orators Pulpet, deckt and beautified with the stemmes of many ships, which the *Romans* got from the people of *Antium*, in a memorable battaile vpon the Sea: And [o] hence from those ship-beakes, called in Latine *Rostra*, hath this place taken its name. It may be Englished, the great Oratory, or place of Common-plea.

[o] Hubert, in Cic. ep. lib. 8. ep. fam. 1.

Cap. 14.

De templo Caſtoris.

ANother part of the *Forum* was a ſanctuarie built in the honour of *Caſtor* and *Pollux*: the reaſon thereof was becauſe they appeared vnto the *Romans* in the Latine warre in the likeneſſe of two *Angels* ſent from heauen to leade the *Romane* army, and to aſſiſt the *Romans* againſt the *Latines*: who being vāquiſhed, they ſuddenly were departed out of the field, none knowing how, and euen in the ſame moment they appeared vpon their ſweating horſes vnto the *Roman* Citizens in the *Forum*, who taking them for ſouldiers, demanded what newes they brought home from the campe: they replyed, that the *Romans* were conquerours: which newes being deliuered they ſuddenly vaniſhed & were ſeene no more. Vpon this occaſion did *A. Poſthumius* being at that time *Dictator*, build a temple in that place of the *Forum*, where they were ſeene in honour of them both. Although in the after Ages, it had the name onely of *Caſtors* Temple: Whence aroſe the ieſt of *M. Bibulus*, againſt his fellow Conſul *Iulius Caſar*, ſaying; it fared with him, as it did with *Pollux*; *id eſt*, as this temple which was erected in the honour of both the brethren, carried the name onely of *Caſtors* Temple; ſo the great expences in exhibiting ſhewes in the time of their Conſulſhippe, though they were deeper on *Bibulus* his ſide, yet *Caſar* carried away all the thankes, and credite. In ſo much that the people being wont to ſubſcribe the names of both Conſuls at the end of their Deedes, and Charters, for a remembrance of the yeare; that yeare they wrote, Such a thing done; not *Bibulus* and *Caſar*, but *Iulius* and *Caſar*, being Conſuls.

p Sueto. in Iulio Cæſare.

Cap.

Cap. 15.

De æde Saturni

Saturnes ſanctuarie [q] was the common treaſure houſe, wherein the ſubſidie money which the commons paide vnto the treaſurers called *Quæſtores*, was to be laide vp: whereof diuers coniecture diuerſly. *Alexander Neop.* [r] ſaith, that *Saturne* found out the vſe of braſen money: and therefore this Temple might be thought the fitteſt place for the treaſury. *Plutarch* thinketh rather, that the making of the treaſurie in that place did allude to the integrity of the time, wherein *Saturne* rained, being the worlds golden Age. [s] But the moſt receiued opinion, is the ſtrength of the place, whereby it was the ſafer from theeues. The Temple by reaſon of the vſe it was put vnto, was called *æratium* from *æs, id eſt*, Braſſe: which name now is common to all treaſure houſes: for that the firſt money vſed by the *Romans* was of that mettall, vntill the yeare of *Rome*, 485. (as *Pliny* witneſſeth lib. 3. cap. 33.) [t] Some are of opinion, that before the vſe of braſſe, they made mony of leather: whence *Numa Pompilius* is ſaid to haue giuen leather mony in a dole vnto the people. Touching their order obſerued in the treaſurie, wee muſt vnderſtand that their care in prouiding againſt ſudden daingers was ſuch, that they laid aſide the twentieth part of their receipts, which they [u] called *aurum viceſimarium*, *Incenſimarium*, and *Camiliarchium*, into an inner Chamber or more ſacred roome, named in Latine *æratium ſanctius*. [x] Wee may reade alſo of a third treaſury called *æratium militare*, wherein *Auguſtus* had appointed that the twentieth part of certaine legacies ſhould be laid vp to defray charges in extraordinary wars: where it lay ſo priviledged, that it was a capitall crime to vſe any of it, but in extreame and deſperate neceſſity. Notwithſtanding, howſoeuer

[q] Plutarch in Publicola.

[r] Alex. Gen. dier. l. 4. c. 15.

[s] Alex. Gen. dier. l. 2. c. 2.

[t] Alex. Gen. dier. lib. 4. c. 15.

[u] Alex. Gen. dier. l. 2. c. 2.

[x] Seruius. l. 2. Virg. Georg.

euer it was vſed as a treaſure houſe [x] yet diuers Authors teſtifie that the Acts of their Senate, the books of records, together with ſuch bookes, as were for their immeaſurable bigneſſe, called *libri Elephantini*, wherein all the names of their Citizens were regiſtred, and alſo their military Enſignes, were contained there. [y] And from thoſe ſtatute books called *tabulæ publicæ*, this treaſurie was alſo called *Tabularium*, becauſe they were laide vp there.

[x] Alex. Gen. dier. l. 2. c. 2.

[y] Plutarch. in ſuis problemat. vid. Franc. Syluiũ in Catilinar. 4.

Cap. 16.

De campo ſcelerato.

Campus ſceleratus, the field of execution [z] lying within the citie, ioyned to the gate *Collina*. It was the place, where the Veſtall Nuns, if they were deflowred, ſuffered puniſhment after this manner. There [a] was made a Vault vnder the earth with a hole left open aboue, wereby one might goe downe; and within there was a little couch with a burning lampe, and a few victuals: whither the defiled Votary was to be brought, through the market place, in a litter ſo cloſed vp with thicke leather, that her mournings might not be heard to the mouing of pitty. Shee beeing thus brought to the place of execution, was let downe by a ladder into the hollow Caue, and the hole preſently ſtopped. And the reaſon why they ſuffered ſuch a kinde of death, was becauſe they thought it not fitte, that ſhee ſhould bee burnt with fire, which kept not the ſacred fire with greater ſanctity. And it was thought vnlawfull to puniſh them by laying violent hands on them, becauſe they had in former time ſerued in ſo holy a function.

[z] Munſter. in ſua Coſmog.

[a] Plutarch. in Numa.

Cap.

Cap. 17.

De Campo Martio.

THe [b] *Campus Martius*, otherwiſe called *Tiberinus*, (becauſe it was neere the riuer *Tiber*) was giuen vnto the Roman people, by *Caia Tarratia*, a Veſtall Virgin: but *Tarquinius Superbus*, the laſt King of *Rome*, did take it from the people, converting it to his owne priuate vſe: inſomuch that he ſowed corne there; which when he was depoſed, the *Romans* did caſt into the riuer *Tiber*, iudging it vnfit that any man ſhould reap any commodity from ſo holy a ground. In proceſſe of time, the ſheaues of corne being ſtopped in a ſhallow foard of the riuer, became firme ground, and was called, *The holy Iland*, or *Æſculapius his Iland*. and preſently after the expulſion of *Tarquinius*, this *Campus Martius* was reſtored vnto its former vſe. Beſide the naturall pleaſantneſſe of the place it ſelfe, it was beautified with many ornaments brought out of the *Capitoll* (the *Capitoll* being too full) as likewiſe with diuers images of well deſeruing men. Hither did the younger ſort of *Romans* come to exerciſe Chiualry, namely the horſe-race, the foot-race, wreſtling, fencing, caſting the bowle, the ſledge, the dart, vſing the ſling, the bow, vaulting, with ſuch like: and vpon this occaſion it was dedicated to *Mars*, and called by *Strabo*, the **Romans great ſchoole of defence.** [c] The manner of vaulting, was in riding, to leape from one horſe-backe vpon another, their cuſtome being for their horſe-men in warre, to lead a ſpare horſe in their hands, beſides that whereon they did ride, that when the one did ſweat, they leaped vpon the others backe; *à deſiliendo*, thoſe horſes were called *Equi deſultorij*, whence an vnconſtant, wavering, and vnſettled minde, which *Seneca* calleth *Volaticum ingenium*, others haue called *Deſultorium ingenium*. In this field were men of beſt note burned, when they died. Here were the Kings, and other Magiſtrates,

[b] Roſin. antiq. lib. 6. cap. 11.

[c] Cœl. Rhod. l. 21. c. 29. 30.

giſtrates at firſt created. In this [d] field of *Mars* alſo was a place at firſt railed, like a ſheep-pen, called therefore *Ovilia*, or *ſepta*; but afterwards it was mounted with Marble ſtone, beautified with ſtately Walkes and Galleries, and alſo with a Tribunall, or ſeat of iuſtice, within which precinct the people oftentimes aſſembled to giue their ſuffrages toward the election of Magiſtrates. The meanes of aſcending vp vnto theſe *Ovilia* was not by ſtaires, but by many bridges made for that time, every pariſh in the aſſembly of pariſhes, and every Tribe, or Ward in the aſſembly of the Tribes, & every hundred in the aſſembly of Centuries hauing his Bridge: whence this proverbe was occaſioned, *de ponte deijciendus, id eſt*, he is to be barred from giuing his voice. [e] Theſe bridges were not made ouer any riuer but ouer the dry land: whence mẽ were ſaid to be caſt, *Non vt periclitarentur de vita, ſed ne ſuffragarentur in Comitijs.*

[d] Servius in Bucol. eclo. 1.

[e] Ioan. Saxonius in Orat. pro S. Roſcio.

Cap. 18.

De Circo Maximo.

AMongſt other places where the Romans exhibited their Playes vnto the people, the moſt remarkable was the great Circque, or ſhew-place, called in Latine *Circus Maximus*. It was a large peece of ground, lying neere that part of the *Aventine* Mount, where *Dianaes* Temple ſtood. It was built by *Tarquinius Priſcus*, with diuerſe galleries round about it, from whence the *Senators* & Gentlemen of the City did behold the running with great Horſes at lifts, the fire-workes, tumbling, the bayting, and chaſing of wild beaſts, &c. In former time, all did ſtand on the ground, being ſheltred from the raine by the helpe of boards vpheld with forkes in manner of houſe-pentices: and this cuſtome continued vntill the aforeſaid *Tarquinius* erected thoſe Galleries, called *Fori*, making thirty diſtinctions of them

them, allotting every ward or companie their ſeverall quarters, all the ſeats being able to containe one hundred fiftie thouſand parties. [f] Vnder theſe places were cels, or vaults, where women did proſtitute their bodies, and would buy ſtolne goods, and for this reaſon *Horace* calleth it *Fallacem circum, id eſt*, the deceitfull ſhew-place. There was at the one end of the cirque certaine barriers, *id eſt*, places barred, or railed in, at which place the horſes began the race; and at the other end was the marke, whether the horſes ran: it was called in Latin *Meta*, and the barriers *carceres, à coercendo*. Whence we ſay *à carceribus admetam, id eſt*, from the beginning to the ending.

[f] Roſin. antiq. lib. 5. cap. 4.

Cap. 19.

De Theatro.

THe **Theatre** [g] hath his name from the Greeke verbe θεάομαι, *id eſt*, to behold: becauſe the people flocked thither, to behold plaies and ſhewes exhibited to them. The cuſtome [h] firſt ſprang from the ſheepeheards, who leading a contemplatiue life, were wont to compoſe dialogues in meetre, and at their leaſure to recite them vnder the trees preſſed down in forme of an arbor; whence this theatrall tearme σκηνὴ, hath beene deriued from σκιὰ, a ſhaddow, but afterward learned Poets compoſed Comedies, and Tragedies, which were publiquely acted in the Cirle vpon a ſtage: and although at the firſt it was counted infamous to frequent them, yet afterwards the Senatours themſelues, yea the Emperour, and all the chiefe of *Rome* aſſembled thither. [i] Neither for a long continuance were there any ſeats built, but Commons, and Nobles, promiſcuouſly one with another, all ſtood on the ground: inſomuch that thoſe which ſtood behinde, raiſed vp places with turfes of earth, which gaue the people occaſion to call the place betweene thoſe

[g] Ioach. camerar. in orat. pro L. Flacco. [h] Seruius l. 2. Virg. Georg.

[i] Alex. Gen. dier. l. 5. c. 16.

turfes and the ſcaffold, *Cavea, id eſt*, a caue or denne: yea the people that ſtood there, were ſo called frō the place. Though the Theatre be now taken only for the ſtage; yet then by it was vnderſtood the whole roome, where theſe plaies were acted: and it had diverſe parts, ſome proper to the actours, ſome to the ſpectators. To the actors firſt belonged the *proſcenium, id eſt*, the houſe, whence the players came: where they apparelled themſelues, though ſometimes it is taken for the ſcaffold, or ſtage it ſelfe: ſecondly, the *pulpitum, id eſt*, the ſtage or ſcaffold vpon which they acted: and thirdly, the *ſcena*, that is, the partition which was commōly made of wood not of hangings. Now that they might change their ſceane according to their pleaſure, they made it [k] *Verſatilem, id eſt*, ſo that with enginnes it might vpon the ſuddaine be turned round, and ſo bring the pictures of the other ſide into outward appearance: or otherwiſe *ductilem, id eſt*, ſo that by drawing aſide of ſome wainſcot ſhuttles (which before did hide the inward painting) a new partition might ſeeme to be put vp: and I thinke becauſe thoſe ſheepheards did act no more at a time, then one of our *Scenes*, hence haue we diſtinguiſhed our plaies into ſo many parts, which wee call *Scenes*. The places which were proper to the ſpectators were diſtinguiſhed according to their degree & ranck; for the remoteſt benches were for the **Commons**, & called *popularia*; the next for the **Knights** and **Gentlemen** of *Rome*; & called therefore *Equeſtria*; the others wherein the **Senators** did ſit were commonly called *Orcheſtra*: this may be collected out of [l] *Lipſius*, [m] *Cael. Rhodiginus* ſaith, that the *Orcheſtra* was that place ioining to the ſtage, where *Chorus* ſpake to the people at the end of every act. Diverſe authors are of *Cael. Rhod*: his opinion, deriving the word *Orcheſtra*, from the Greeke ὀρχέομαι, to dance: but it ſeemeth more probable, to haue bin a peculiar place, allotted for the Senators. *Iuv. Sat. 3*

Æquales habitus illic, ſimilemq; videbis
Orcheſtram, & populum---id eſt, optimates & plebem. The whole

[k] Servius, l. 3. Virg. Georg.

[l] Lipſius de amphith. c. 14.

[m] Cael. Rhod. lib. 8. cap 8.

whole building made for entertainment of the ſpectators, reſembled a triangle, or wedge, ſharpe towards the ſtage, and broad behinde: whence the whole was denoted by the name *Cuneus*; when *Cuneus* ſignified any particular place about the theatre, then by it we are to vnderſtand that which formerly we called *popularia*, the place for the meaner ſort of people, [n] whence when we would point out a baſe and ignoble perſon, *Inter cuneos reſidere dicitamus*. There was alſo another kinde of ſcaffold, built quite round, made as it were of two theatres ioyned together, it was called *Amphitheatrum*, and differed from the Theatre, only as the full moone doth from the halfe, or a compleat rundle, from a ſemi-circle: it [o] reſembled an edge. Vpon this kinde of ſcaffold did the Maſters of defence play their prizes, and wilde beaſts were baited [p] *In Amphi-theatro gladiatorij ludi, & conclusarum ferarum venationes exhibebantur*. The *Amphitheatre* it ſelfe in the iudgement of [q] *Lipſius* was tearmed *Cavea, ab interiore parte quæ concaua erat*; And *Arena* becauſe it was ſtrowed with grauell & ſand, that the bloud of ſuch as were ſlaine in the place might not make the place too ſlipery for the combatants. Hence commeth that phraiſe *In arenam diſcendere*, to goe into the field: and the combatants were thence called *Arenarij*. Here we muſt note, that howſoeuer the *Amphitheatre* was ſtrowed commonly with common and ordinarie grauell, yet ſometimes in their extraordinary ſhewes that grauel was couered and as it were new coated, with the ſcrapings & duſt of ſome extraordinary ſtones, to adde the greater luſtre vnto it: thus much [r] *Pliny* intimateth. *Inuenere & alium vſum eius lapidis, in tamentis quoq;. Circum maximum ſternendi, vt ſi in commendatione & candor*. Againe, ſometimes the hollow places or dennes vnder the *Amphitheatre*, in which the wilde beaſts were kept, & likewiſe men to be committed with wilde beaſts, out of which theſe were let looſe by the lifting vp of trappe doores to be hunted or baited vpon the *Amphitheatre*, were called *Cauea*. For we muſt

[n] Cæl. Rhod. lib. 8. cap. 8.

[o] Turneb. ad. verſ. lib. 5. c. 5.

[p] Hoſp. de origi. feſt.

[q] Lipſ. de. Amphitt. c. 3.

[r] Plin. lib. 36.

know that the *Amphitheatre* was full of hollow paſſages for many reaſons, as for the conuenient keeping of wilde beaſts, and beaſtiaries; ſo ſometimes for the better conueying of waters thither, by the meanes whereof [f] reall ſhips and ſea-skirmiſhes were often times exhibited vpon the *Amphitheatre.*

[f] Sueton. in Domitian.

CAP. 20.

MOreover for the better vnderſtanding of claſſicall autors, it will not be impertinent to point at the general names, by which the religious places were called: and to declare the proper acception of each name; the names being theſe, *Templum, Fanum, Delubrum, Ædes ſacra, Pulvinar, Sacrarium, Lucus, Scrobiculum, Ara, Altare, Focus.*

De Templo.

This word *Templum* doth ſometimes ſignifie thoſe [a] ſpaces, and regions in the aire, and earth, which the *Augures* did quarter out with their crooked ſtaffe at their ſouth-ſaying. Sometimes it doth ſignifie a ſepulchre or graue, [c] becauſe in old times, men did ſuperſtitiouſly pray, and worſhip at the toombes and monuments of their deceaſed friends, as if it had beene in *Temples* or *Churches*, and in this ſenſe may *Virgil* be vnderſtood;

[a] Roſin. Ant. lib. 2. cap. 2.

[c] Lilius Gyrald, de dijs gentil. ſyntag. 17.

[d] *Fraterea fuit antiquo de marmore templum.*
Coniugis antiqui.----

[d] Li. 4. Ænead. v. 457.

Moſt commonly it doth ſignifie a Church, or *Temple*: in which ſenſe as often as it is vſed, it is [e] ſaid a *templando*, from beholding; becauſe when we be in the Church by lifting vp our hearts by a diuine contemplation, we doe, as it were behold the great maieſtie of God.

[e] Fr. Sylvius in orat. pro Muren.

De Fano.

It is alſo called *Fanum, á fando*, from ſpeaking: not from the ſpeaking of the Prieſt, but becauſe the people doe there ſpeake

ſpeake vnto God, & God againe to the people. [f] Some are of opinió that *Fanũ* in propriety of ſpeech ſignified the **Church-yeard**, or court before the Temple: *Templum* ſignifieth the edifice, or Church built. [f] Turneb. ad. verſ. lib. 3. c. 9.

De Delubro.

Thirdly, a Church was called, *delubrum Synecdochicõ*, becauſe it was the principall part of the Church, namely the place where their Idol God ſtood; and it was called *delubrum* from *Deus*: as we call the place where the candle is put, *candelabrum* from *candela*. As concerning the outwarde forme of the Churches, ſome were vncouered becauſe they counted it an haynous matter to ſee thoſe Gods confined vnder a rooſe, whoſe doing good conſiſted in being abroad; other-ſome couered; ſome round, ſome otherwiſe: but within they much reſembled our great Churches. They had their *prondon*, or **Church-porch**, whereabouts they were wont to haue the image of the beaſt *Sphinx*, which was ſo famous for his obſcure riddles: ſo that by this image was ſignified, that the oracles of the Gods, which were treated of within the Church, were darke and myſticall. They had certaine walks on each ſide of the **body of the Church**, which they called *porticus*: and in theſe places it was lawfull for them to marchandiſe, make bargaines, or conferre of any worldly buſineſſe; as likewiſe, in the *baſilica*, or **Body** it ſelfe. But their **Quire** called *Chorus*, was counted a more holy place, ſet a part only for diuine ſeruice. The manner of hallowing it, was as followeth. [g] Rofin. antiq. lib. 2. c. 2.

[h] When the place where the Temple ſhould be built, had beene appointed by the Augures (which appointing, or determining the place they called *Effari templa*, and *ſiſtere Fana*) then did the party, which formerly in time of neede vpon condition of helpe from the Gods had vowed a Temple, call together the *Aruſpices*, which ſhould direct him in what forme the temple ſhould be built: which being knowne certaine ribbands, and fillets were drawne about the *area*, or plot of ground with flowers, and garlands ſtrowed vnderneath, as it was probable to diſtinguiſh the limits of this [b] Roſin. Ibid. l.

ground now to be hallowed, Then certaine ſouldiers marched in with boughs in their hands, and after followed Veſtall Nunnes leading young boyes, and maides in their hands, who ſprinkled the place with holy-water. After this following the Prętor, ſome Pontifie going before, who after the *area* had beene purged by leading round about it a ſow, a ramme and a bull, ſacrificed them, and their entralls being laid vpon a turfe, the Prętor offered vp prayers vnto the Gods that they would bleſſe thoſe holy places, which good men intended to dedicate vnto them. This being done the Prętor touched certaine ropes, wherewith a great ſtone being the firſt of the foundation was tyed together with that other chiefe Magiſtrats, Prieſts, and all ſorts of people did helpe to pluck that ſtone, and let it downe into its place, caſting in wedges of gold, and ſiluer, which had neuer beene purified, or tryed in the fire. Theſe ceremonies being ended, the *Aruſpex* pronounced with a loud voice, ſaying, *Ne temeretur opus, ſaxo, auróne in aliud deſtinato, id eſt*, let not this worke bee vnhallowed by conuerting this ſtone, or gold, into any other vſe.

De Ædeſacrâ.

Fourthly, a Church was called *Ædes ſacra*, an holy houſe, becauſe of the ſacrafices, prayers and other holy exerciſes performed therein. Although (as *Gellius* hath long ſince obſerued euery holy houſe was not a Church. For the proper note of diſtinction between a Church, and a religious houſe was this: that a Church beſide that it was dedicated vnto ſome God, it was alſo hallowed by the Augures, without which hallowing the edifice was not called a Church but a religious houſe: of which ſort was the Veſtall Nunnery, and the common treaſurie, called *Ædes Saturni*. Wee may adde hereunto this word *Puluinar*, [i] which doth often ſignifie a church: the reaſon being taken from a cuſtome amongſt the Painims, who were wont in their churches to make certaine beds in the honour of their Gods, and thoſe beds they called

[i] Bárthol. Latomus in Philippic. 4am.

Pulvinaria

Pulvinaria from *pulvis*, becauſe they were filled with duſt or chaffe.

De Sacrario.

Sometimes [k] *Sacrarium* ſignifieth a temple, though properly it ſignifieth a Sextry or Veſtry, nempe [l] *Sacrorum repoſitorium.*

[k] Cic. pro Milone.
[l] Franc. Sylvius in orat. pro L. Muræn.

De Lucis.

Neere vnto diverſe Temples ſtood certaine groues dedicated to ſome of the Gods: they were called in Latine *Lucus non lucendo*, as diverſe ſay, by the figure *antiphraſis*. But others are of a contrary opinion, giuing it that name, becauſe of the exceeding light it had in the night time by reaſon of the ſacrifices there burnt.

De Scrobiculo, Ara, & Altari.

The places vpon which they ſacrificed either in their religious houſes, or their groues, were of three ſorts, which wee in engliſh tearme altars; but the Romans diſtinguiſhed thē by three ſeverall names, *Scrobiculus*, *Ara*, and *Altare*.

De Scrobiculo.

[m] *Scrobiculus* was a furrow, or pit containing an altar in it, into which they powred downe the bloud of the beaſt ſlaine, togither with milke, hony, and wine, when they ſacrificed vnto an infernall God.

[m] Alex. Gen. dier. l. 5. c. 26.

De Ara.

The ſecond kind of altar was called *Ara*, either *ab ardendo*, becauſe their ſacrifices were burned vpon it: or from their imprecations vſed at that time, which in Greeke they called ἀραὶ. It was made foure-ſquare, not very high from the ground, or as ſome ſay, cloſe to the ground: and vpon this they ſacrificed vnto the terreſtriall Gods, laying a turffe of graſſe on the altar: and this gaue *Virgil* occaſion to call thē [n] *Aras gramineas, id eſt*, graſſie altars.

[n] Virg. Æn. 12

De Altari.

The third ſort was called *Altare*, either becauſe it was exalted, and lifted vp ſomewhat high from the ground; or becauſe

cauſe he that ſacrificed (by reaſon the altar was ſo high) was conſtrained to lift vp his hands *in altum*, on high: o and vpon this they ſacrificed vnto their celeſtiall Gods only.

o Serv. in Bucolic. eclog. 5.

De Foco.

Focus is a generall name, ſignifying any of theſe altars ſo called *á fovendo*: becauſe as *Servius* hath obſerued that is *focus, quicquid fovet ignem, ſive ara ſit, ſive quicquid aliud, in quo ignis fovetur.* But in ſtrict proprietie of ſpeech, it is taken for that altar on which they ſacrificed to their domeſticke Gods, ſuch as were their *Penates* or *Lares*. As it appeareth by *Plautus* p:

p Aulular. act. 2. ſc. 5.

Hæc imponentur in focum noſtro Lari
Vt fortunatas faciat gnatæ nuptias.

Whence ariſeth that Adage, *Pro aris & focis certare*, ſounding as much as to fight for the defence of religion and ones private eſtate; or (as our Engliſh proverb is) for God and our country; the proverb being in its originall, part of the oath that was adminiſtred vnto the Romane Souldiers: and thus it is expounded by q *Turnebus*.

q Turneb. Adv. lib. 10. c. 7

LIB.

LIB. 1. SECT. 2.

The generall diuiſions of the Romane people.

CAP. 1.

De populo Romano, & eius primâ diuiſione.

THus hauing premiſed a ſhort Treatiſe concerning the firſt ſituation of *Rome*, and the moſt remarkeable parts thereof, I purpoſe to proceed to the Inhabitants, which antiquitie hath ſtiled Citizens of *Rome*. And *Eraſmus* rather deſcribing a *Romane*, then defining him, ſaith, A *Romane* was graue in his converſation, ſeuere in his iudgement, conſtant in his purpoſe: Whence *Cicero* in his Epiſtles often vſeth this phraſe, *More Romano*, for *ex animo, id eſt*, vnfainedly. [a] *Sigonius* rendring the definition of a *Romane* citizen, averreth that no man is *lege Optimâ, id eſt*, in full and compleat manner a citizen of *Rome*, but he which hath his habitation there, which is incorporated into a tribe, and which is made capable of citie preferments. By the firſt particle thoſe which they tearme *municipes*; by the ſecond thoſe which they call *Inquilini*; and by the third thoſe which they call *Libertini* are in a man-

[a] Sig. de iur. Rom. l. 1. c. 1.

ner disfranchised. But whereas *Sigonius* saith that they must haue their habitation at *Rome*, he would not bee so vnderstood, as if a *Romane* citizen might not remoue his habitation to any other country: For, saith he, a *Romane* citizen may be as long absent from *Rome*, and the fields belonging to *Rome*, as he please, so that he suffer himselfe to bee sessed and taxed in common with others toward the subsidie payments, and denieth to be incorporate into another citty. For *T. Pomponius* was a true citizen of *Rome*, though hee dwelt at *Athens*. The *Romane* citizens being by these priviledges as by a more proper and peculiar character distinguished from other people; and being planted in the citty according to the appointment of *Romulus* their King, it seemed good vnto him to divide them into [b] Tribes, not taking the note of distinction only from the diverse places they then inhabited, as we read that *Servius* the fifth king of *Rome* did, making therefore foure tribes τοπικὰς, local, namely *Suburanam*, *Palatinam*, *Collinam*, and *Esquilinam* (which number of local tribes in processe of time increased vnto the number of 35.) but dividing them according to their seuerall nations, which at the first were *donati civitate*, *id est*, made free denizens of Rome: and they being in number three. 1. the *Sabines*, which were named *Tatienses*, from their king *Tatius*. 2. the *Albanes*, called *Rhamnenses* from *Romulus*. 3. other nations promiscuously flocking out of other countries to the *Romane Asylum* placed in a groue called in Latine *Lucus*, which gaue *Romulus* occasion to name them *Luceres*) he made in all three tribes φυλὰς or nationall. After that *Romulus* had thus deuided the whole body of the *Romanes* into three tribes, hee then subdiuided each tribe into ten lesser numbers, which he called *Curia*, or parishes: and then followed fiue other diuisions in respect of their different degrees, and callings: of which in their seuerall order.

[b] Sigon. de iur. Rom. l. 1. c. 3.

CAP.

Cap. 2.

De prima diuisione Romanorum in Senatores, siue Patres, Patricios, siue Patronos, & Plebeios, siue Clientes.

THe first diuision of the *Romans* in respect of their degree, and place was this. The elder, wealthier, & graueſt sort of *Romanes*, were called sometimes *Patricij*, either becauſe of their age, and gravity; or becauſe they had many children (for great priviledges were granted vnto fathers of three children:) and sometimes *Patroni*, becauſe they were as patrons, and fathers in helping and assisting the cauſes of the common people seeking to them. The yonger, poorer, and simpler sort were called, as they had relation to the *Patricij*, *Plebeij*, *id eſt*, the commons; as they had relation to their *Patrons*, they were named *Clientes*, *id eſt*, Clients. betweene whom [c] there was such a mutuall, and reciprocall entercourſe of loue, & duty, that as their *Patrons* were ready to protect their clients, so the clients were bound withall faithfulneſſe to cleaue vnto their Patrons: & that not only to credit thē with their attendance in publike assemblies, but to disburſe out of their owne purſes towards the beſtowing of their daughters, the paying of publike mulcts, the giuing of largeſſes in suing for offices, &c. Neither was it lawfull for either of them to enforme, to depoſe, to giue their voices, or to side with adverſaries one against another without the guilt of treaſon: for which crime of treaſon they were *dijs inferis deuoti*, *id eſt*, curſed to hell, and the law gaue liberty for any man to kill them. Out of the *Patricij* did *Romulus* elect 100 counſellers to assist him in determining matters cōcerning the common-weale: to theſe did *Romulus* after adde another 100. and *Tarquinius Priſcus*, as diuers Authors teſtifie, made them a compleat 300. which they called *Patres*, or

[c] Lazius de Repub. Rom. lib. 12. cap. 3.

Senatores, and their ſonnes *Patricij*. But in proceſſe of time the commons alſo were eligible into a *Senators* place. Some ſay that *Tarquinius Priſcus* added the ſecond hundred to the *Senate* out of the commons,[d] who were called *Senatores minorum gentium, id eſt*, *Senators* of the lower houſe. *Brutus* added the laſt 100: and made them 300: at what time they began to be called *Patres conſcripti*. And this accordeth with *Ioannes Roſa* in his Epitome of the *Roman* hiſtory, in his chap *de Regibus Romanis*: where he ſaith, that *Tarquinius Priſcus* did double the number of the *Senators*: And likewiſe[e] *Alexander Neop.* ſaith, that *Brutus* made them a compleat 300

[d] Martin. Philetcus in Cic. l. 1. Ep. fam. 1.

[e] Alex. Gen. dier. 2. c. 29.

Cap. 3.

De ſecunda diviſione Romanorum in tres ordines, Senatorium, Equeſtrem, Populārem, ſeu Plebeium.

AFter that through *Tarquinius Superbus* his tyranny, the very name of a king became odious to the Romans, not only the preſent king was exiled, but the authority of a king ever afterward deteſted, and perpetually abrogated: ſo that the office, which was before monarchical then was diuided betweene two, called Conſulls; neither were they admitted for any longer ſpace then one yeare. At which time of change, the *Romanes* were divided into three orders, or ranges, 1. into **Senators**, of whom before. 2. into **Gentlemen**, called of the *Romanes ordo Equeſtris*: by which we doe not vnderſtand thoſe 300. *Celeres, id eſt*, Penſioners, called ſometimes *Equites*, for that was a place of ſervice, this a title and token of gentility. Who although they were inferiour to the chiefe Senate, yet they were of great eſteeme among the *Romanes*: and although they might not weare the ſame robe as the *Senators* did; namely the *laticlavium*, or garment beſtudded with flouriſhings of purple ſilke in manner of broad naile heads; [f] yet they might weare the *anguſticlavium*,

[f] Roſin. Antiq. l. 1. cap. 17.

clauium, a garment differing from the former onely in this, becauſe the purple ſtuddes, wherewith it was purfled was narrow, and not ſo large as the *lati-clauium*. They alſo at the time of their election receaued from the *Cenſors* an horſe called by them *equus publicus*, becauſe of the yearely allowance out of the common treaſury to keepe him: it was alſo called *equus militaris*, becauſe of their ſervice in warre (g they hauing their horſes kept as well in peace as warre.) They receaued alſo a gold-ring, h whereby they were diſtinguiſhed from the Populacie: for it was not lawfull for any to weare a gold-ring vnder the degree of a *Senator*, or a Gentlemã. The eſtimation and value of a *Senators* eſtate i vntill *Auguſtus* his time was *octingenta ſeſtertia*, that is, 6000l. k Of a Gentlemans eſtate it was *quadringenta ſeſtertia*, that is, of our Engliſh mony 3000l. 3. The third order, or degree in the *Romane* common-wealth was *Populus*, the populacy, or commons, which ſhould exerciſe trading, manure the ground, look vnto the cattle, &c. Where by the way wee muſt vnderſtand that the baſer ſort of the *Romanes*, which did wander vp & downe to and fro, not ſetling themſelues to any vocation, were not contained within this diuiſion: for vnto them there was no name vouchſafed: but according to the Poet they were *ſine nomine turba*; or as *Liuy* ſaith, *ignota capita*, men of no account, and therefore of no name.

g Lipſius de magnitud. Rom. l. 1. dial. 5
h Alex. Gen. dier. l. 2. c. 29.
i Suet. In Auguſt.
k Plin. lib. 33. cap. 2.

CAP. 4.

De tertiâ diuiſione in Nobiles, Nouos, & Ignobiles.

THis diuiſion was taken from the right or priuiledge of having images; for they were accounted Noblemen, which had the images of their predeceſſours: Thoſe which had their owne images onely were called *Noui, id eſt*, late-coyned nobles or vpſtarts. *Saluſt* vſeth this

word often in the disgrace of *Tully* calling him *Novum & reptitium civem*, one that lately crept into the city. The third sort called *ignobiles* were those that had no images, neither of their predecessors, nor of themselues. Before we proceed, we must vnderstand, that it was not lawfull for who would to haue his owne image, if he so desired; for none might bee thus priviledged, but those alone to whom the right of riding in a Curule chaire belonged; and to these the right of images was permitted, as well for the credit of their house, as to incite others to the like atchieuemẽts, when they would consider the diverse ceremonies vsed vnto these images in an honourable remembrance of those whom they did represent. Whence it followeth, that *Ius nobilitatis* is nothing else but *Ius imaginis*; insomuch that this word [l] *Imago* doth oftentimes signifie Nobilitie: and the right of hauing Images with them, was the same as the right of hauing armes with vs. [m] The superstitious conceipt which the *Romanes* had of these images was such, that vpon festivall daies and all occasions of ioy and mirth, those images should be beautified and adorned with garlands and flowres; vpon occasions of griefe & mourning they would take from them all their ornaments, making them in a manner to partake of their mourning. Some they kept in their private closets, [n] others they exposed to the publike view of passengers, placing them in the gates of their houses together with the swords, targets, helmets, shipbeakes, and such other spoiles as formerly they had taken from their enimies; [o] which it was not lawfull for any, though they bought the house so much as to deface. Yea they were so annexed to the freehold that they passed alwaies in the conveyance of the house. The matter of which they were commonly made was waxe, as that of *Iuvenall*, doth sufficiently witnesse.

[l] Sig. de iur. Rom. l. 2. c. 20.

[m] Alex. Gen. dier. l. 5. c. 24.

[n] Barth. Lato. in Verrin. 7.

[o] Plin. 35. 2.

[p] Iuv. Sat. 8.

[p] *Tota licet veteres exornent vndiq; cerа*
Atria, nobilitas sola est atq; vnica virtus.

Againe we may not thinke that they made in waxe a compleat

pleat ſtatue or a full portraiture of the whole body, but only from the ſhoulders vpward.

Cap. 5.

De quarta diuiſione Romanorum in Optimates & Populares.

THis fourth diuiſion of the *Romanes* hath beene occaſioned through the faction & ſiding of the citizens. Thoſe (according to the deſcription of [q] *Tully*) were *Optimates, id eſt*, the beſt citizens, who deſired their actions might be liked, and approued by the better ſort. Thoſe *Populares, id eſt*, popular, who through a deſire of vaine-glory, would not ſo much conſider, what was moſt right, as what ſhould be moſt pleaſing vnto the populacie. So that here by this word *popular*, we vnderſtand not the commons, as formerly we did, [r] but be he Senator, Gentleman, or inferiour, if he doe more deſire that which ſhall bee applauded by the maior part, then that which ſhall be approued by the better part, him the *Romanes* called *Popular, id eſt*, ſuch a one, that preferreth the popular applauſe before the right.

[q] Cic. pro Sextio.

[r] Geor. Merula in orat. pro ligario.

Cap. 6.

De quintâ & vltimâ diuiſione Romanorum, in Libertos, Libertinos, & Ingennos: item de Manumiſſione.

THe difference of the freedomes in the city of *Rome* hath giuen occaſion of this diuiſion: For hee, or ſhee that had ſerued as an *apprentice*, and afterward was manumized, was named *Libertus*, or *Liberta*. The ſon whoſe father, and mother were once apprentices, was called *Libertinus*, but that ſonne whoſe father and mother were both libertines,

bertines, or both free-borne, [f] yea whose mother only was free, was called *Ingenuus, id est*, freeborne. But after *Appius Cecus* his Censorship, then began *Liberti* & *Libertini* to signifie one and the same degree of freedome: so that *Liberti* & *Libertini* were taken for those which serued for their freedome, and *Ingenui* were taken for those which were free-borne, whether their parents were *Liberti* or *Libertini*. Here is occasion giuen vs to consider the maner of their freedome, and such ceremonies which belonged thereunto. The freedome of the citie of *Rome* was three waies obtained: first by *birth*, both or at least one of the parents being free and such were called *ciues originarij*. Secondly by gift and *cooptation*, when the freedome was bestowed on any stranger, or natiõ, and they were tearmed *ciuitate donati*: and so we read that *Cæsar* tooke in whole nations into the freedome. Lastly, by *manumission*, which was thus; when as the seruant was presented by his master before the Consul or Pretor, the master laying his hand vpon his seruants head, vsed this forme of words, *hunc liberum esse volo*, and with that turning his seruant round and giuing him a cuffe on the eare he did *emittere seruum è manu*: the Pretor then laying a certaine wand or rod de called [g] *Vindicta*, vpon the seruants head, replied in this manner *Dico eum liberum esse more Quiritum*. Thẽ the lictor or sergeant taking the wand did strike therewith the seruant on the head, and with his hand he stroke him on the face and gaue him a push in the back, & after this he was registred for a freeman. Moreouer the seruant hauing his head shauen purposely at that time receiue a cappe as a token of libertie whence *ad pileum vocare aliquem*, is to set one at liberty, as likewise *vindictâ liberare*.[u] According to *Tertullian* at this time of their manumission the seruants receaued from their masters, a white garment, a gold-ring & a new name added vnto their former. Whose authority if we admit, then the hauing of three names among the Romans was rather a signe of *freedome* then of *Nobilty*. And that of *Iuuenall*.

Tan-

[f] Iustin. inst. lib. 1. tit. de Ingenuis. vid. Franc. Syly. in Catilinar. 4.

[g] P. Ramus in orat. pro C. Rabirio.

[u] Tert. de resur. carn.

Tanquam habeas tria nomina.---

Is not to bee expounded, *as if you were a noble man*, but *as if you were a free-man*. Here wee may alſo conſider the two ſeuerall kinde of ſeruants: the firſt were called *ſerui*, and they could neuer attaine to any freedome, without the concent of their maſter.[x] For thoſe that were thus *ſerui* were commonly captiues, either beſtowed as a reward vpon this or that ſouldier, or bought *ſub coronâ*, or of other citizens that had gotten them one of thoſe two former waies: the ſecond were called properly[y] *nexi & addicti*, becauſe though they were free, yet by reaſon of their debt, *addicebantur*, that is, they were deliuered vp vnto their creditors by the Prætor to worke out the debt, ſo that after the payment thereof, either by mony or worke, they did recouer their liberty: whence they were ſaid[z] *nomina ſua liberare*, when they paid the debt: as on the contrary they were ſaid, *nomina facere*, when they became in debt. And their creditors when they ſued for the payment were ſaid *nomina exigere*: *nomen* in theſe and the like places ſignifying as much as *debitum* a debt.[a] becauſe the creditors did vſe to write downe their debters names.[b] The manner of ſuing for their debts was as it followeth. The debt being confeſſed, thirty daies were allowed the debter for the payment of the mony (thoſe dayes of reſpite they called *dies iuſtos, velut iuſtitiũ quoddã, id eſt, iuris inter eos interſtitionem & ceſſationem.*) The mony not payd, the debter was deliuered vp as a ſeruant to his creditor, yea he was ſometimes caſt into priſon, and vnleſſe the creditor were in meane time compounded with, he remained threeſcore daies in priſon, & three market daies one after the other being brought before the Iudge, the debt was ſolemnly proclaimed, and vpon the third market day, he was either ſold to forraigners for a ſlaue or els was puniſhed with death, each creditor being ſuffered if he would to cut a peice of his dead body inſteed of payment.

x Dion. Halicar. lib. 4.

y Sig. de iud. lib. 1. cap. 31.

z Micha. Tor. ita in orat pro P. Quintio.

a Fr. Sil in epi. virorum illuſt. l. 1. c. 1. 61.

b Vid. Cel. Rodig. l. 12. c. 20. Item A. Gel. lib. 2. c. 1.

LIB. 2. SECT. 1.

The generall diuiſions of the Romane Gods.

CAP. 1.

De dijs.

THough *Satan* had much blinded the hearts of men in old time, yet was not the darkneſſe of their vnderſtanding ſo great, but that they did eaſilie perceiue, and therefore willingly achnowledge, that there was ſome ſupreame gouernour, ſome firſt mouer, as *Ariſtotle* ſaith: ſome firſt originall of all goodneſſe, as *Plato* teacheth. So that if any made this queſtion, whether there was a God or no? he ſhould be vrged to confeſſe the truth of that rather *argumento baculino, quam Ariſtotelico*, rather with a good cudgell, then with any long diſpute. But as they where moſt certaine, that there was a God, ſo were they againe very blinde in diſcerning the true God: and hence hath bin inuented ſuch a tedious catalogue of Gods, that as *Varro* averreth, their number hath exceeded thirty thouſand, and proued almoſt numberleſſe. Wherefore I ſhall omit to make any diſtinct treatiſe of the Gods, intending *obiter*, and by the way to ſpeake of them, which either had prieſts, or ſacrifices inſtituted for them. Only I purpoſe to ſhew what is vnder-

ſtood by thoſe generall diſtinctions of the Gods, which diuers authors haue vſed. *Tulli lib. 2. de legibus* reduceth all vnto three heads, Gods celeſtiall, which *Varro* calleth ſelect, and others haue ſtyled Gods *maiorum gentium, id eſt*, of the greater nations, becauſe their power was greater then the others. [a] *Alexander Neapolitanus* ſaith, that twelue of theſe were the *Penates*, which *Æneas* did take forth with him at the deſtruction of *Troy*. *Ouid* calleth them *Deos nobiles*, noble Gods: others call them *Deos conſentes, quaſi conſentientes*, becauſe *Iupiter* would doe nothing without the concent of all. *Ennius* hath diliuered them in this diſtich,

Iuno, Veſta, Minerua, Ceres, Diana, Venus, Mars,
Mercurius, Ionis, Neptunus, Vulcanus. Apollo.

The ſecond ſort of Gods were called *Semidei, id eſt*, Demigods: [b] alſo *Indigites, id eſt*, Gods adopted, or canonized; men deified. For as the ſelect Gods had poſſeſſion of heauen by their owne right; ſo theſe Gods canonized had it no otherwiſe then by right of donation, being therefore tranſlated into heauen, becauſe they liued as Gods vpon earth: but becauſe their merit was inferior, and could not parallel the deſerts of the Gods ſelect, therefore were they called Gods of inferior note. [c] *Seruius* would haue theſe called *Diui*: obſeruing this difference betweene *Dij* and *Diui*, that *Dij* ſhould ſignifie thoſe which had bin Gods perpetually, but *Diui* ſhould ſignifie men made Gods, though commonly they are vſed one for another. Whence they called all their Emperours *Diui*, becauſe for their deſerts they thought them worthy to be Gods. Now the [d] manner how a man became deified was this: The party to be canonized being dead, a pile of wood was made in forme of a great tent, or tabernacle, with three other leſſer tabernacles one vpon top of another, the lowermoſt hauing in it dry combuſtible matter, but in the out-ſide adorned Richly with gold, Ivory, and painted tables: Hither the dead corps was to be carryed with great ſolemnities; the Senate, the gentlemen, and all the

[a] Alex. Gen. dier. l. 6. c. 6.

[b] Seruius in lib. Georgic.

[c] In Æneid. lib. 5.

[d] Roſin. Ant. lib. 3. c. 18. vid. Hoſpinian de orig Chriſt. F. p. 21. Vid. exemplum huius conſecrationis in Seueri ſepultura. Herodian. lib. 4. p. 298.

the chiefe magistrats going before, with hymnes and songs, and all kinde of honour, which was to be perfourmed euen to the Gods themselues. He being in this manner brought, and laid within the second tabernacle, the fire was kindled, by him who was to succeed in the Empire for I finde none canonised but onely Emperours at their decease forthwith at the kindling of the fire, a liuing eagle was let fly from the top of the tabernacle which was supposed to transport the soule of the dead body into heauen, in so much that euer after he was canonized amongst the Gods, & worshipped as a God. And because they were thus turned into Gods, some haue called them *Deos animales*, [c] *quoniam anima humana verterentur in Deos.* This canonization was by the Greekes termed *ἀποθέωσις*, by the Latines *consecratio.* The third sort were those morall vertues, by which as by a ladder men climed into heauen: and therefore did men stile them Gods, because by their meanes men became deified. Late writers perceiuing that all the number of the Gods could not bee reduced vnto these three heads, haue added a fourth sort which they [f] call *Semones*, *quasi semi-homines*, because ancient writers, as *Rosinus* hath obserued, called men *hemones*, not *homines.* In which point I shall willingly condescend vnto him; but I shall leaue to the iudgment of others, to determine how iustly he hath restrained the Gods *minorum gentium*, of the lesser nations, only vnto this last *classis*: whereas my opinion is, that the demy-gods, the morall vertues which haue beene styled Gods, and these *Semones*, may all of them be called Gods of the lesser nations standing in opposition with the Gods select, which are called Gods of the greater nations. But that wee may vnderstand what is meant by these *Semones*, we must remember that by them are signified vnto vs not those Gods, which do appertaine to man himselfe, but to the necessaries of mans liuing, his victualls, his cloathing and the like: not to the being of a man but to the well being of him, of which sort is *Salus*, *Fortuna*, with others. We read likewise of other names

[c] Serv. in Æn. lib. 3.

[f] Rosin. antiq. lib. 2. c. 19.

giuen in common to diuers Gods, not as oppoſite members of a diuiſion, but as notes of diſtinction drawne from the diuerſity of helpe, which they ſeuerally did aford vnto man. In this reſpect ſome were called *diy Patrij*, or *tutelares*, ſuch as had vndertaken the protection of any citie, or towne which opinion had ſometimes beene entertained by our Engliſhmen, and thence haue riſen theſe, and the like ſpeeches S. George for England, S. Denis for France, S. Patricke for Ireland, &c. And the Romans being fully perſwaded of the truth thereof, whenſoeuer they went about to beſiege any towne, by certaine enchantments, or ſpells they would firſt call out theſe Tutelar Gods; becauſe they deemed it matter impoſſible to captiuate the city, as long as theſe Gods were within; or at leaſt they thought it a crime vnexpiable to take the Gods as priſoners. And leaſt other nations might vſe the ſame meanes in beſieging Rome, therefore, [g] as diuers authors haue thought, the true name of the Romane city was neuer knowne, leaſt thereby the name of their Tutelar God might be deſcryed. Others namely the *Tyrians* haue tied faſt their God *Hercules* with a golden chaine, thereby the more to ſecure themſelues of his reſidence among them. [h] Others haue beene called *Diy communes*, namely *Mars Bellona*, and *Victoria*, becauſe in time of war they are not bound to either ſide: but ſometimes they helpe one ſide and ſometimes the other. And as they ſuppoſed ſome Gods to haue the protection of whole countries, ſo did they beleeue that others had the charge of particular men; and that ſo ſoone as any man was borne two ſpirits did preſently accompany him inuiſibly, the one tearmed the *bonus Genius*, or good angell, perſwading him to that which ſhould be good: the other called the *malus Genius*, or euill angell, tempting him to that which ſhould be hurtfull: inſomuch that they thought all the actions of men to be guided by theſe angels called *Genij*, ſo that if any miſſortune befell a man, they would ſay that the matter was enterpriſed *Diys iratis, id eſt*, our *Genius* being diſpleaſed with vs *Virgill* calleth

[g] Syluius in epiſt virorum illuſtrium.

[h] Alex. Gen. dier. l. 6. c. 4.

leth theſe bad Angels *Manes*, as it appeareth by that, *Quiſq; ſuos patitur manes*, *id eſt*, Euery man hath his euill Angell, *id eſt*, ſome misfortune. Theſe *Genij* were thought to be a middle eſſence betweene men & Gods: They are therefore called *Genij*, becauſe they haue the tuition of vs ſo ſoone, as we are *Geniti*, *id eſt*, borne, it is moſt certaine that old autors vſed *Geno*, for *Gigno* whence [i] *Tulli* ſaith, *ſi mihi ſi-lius genitur*, and [k] *Varro Antequam genat filiquas*, although every place had alſo his *Genius*, as hereafter ſhall appeare. This opinion was the more confirmed by a viſion which appeared vnto [l] *Brutus* in *Aſia* neere vnto the time of his death: for *Brutus* watching vpon a certaine night in his pauilion, the candle being neere ſpent, ſaw a fierce tragicall perſon appeare vnto him, ſomewhat bigger then a man, & he preſently being of an vndaunted ſpirit, demãded whether he were a God or a man? To whome the viſion anſwered, *Brutus* I am thy euill *Genius*, which haunteth thee, thou ſhalt ſe me at the citie *Philippi* againe, and the ſame viſion appeared vnto him, as he was fighting at *Philippi*: which was the laſt fight that euer he fought. and becauſe *Iuno* was wont to be inuocated in the time of Childe-birth therefore many haue thought that euery mã hath not his two Angels but one Angel, & *Iuno* to obſerue him, but it is agreed vpõ by beſt autors, that as the angels or ſpirits which did attend men were tearmed *Genij*: ſo thoſe which guarded women were tearmed *Iunones*. This *Genius*, as oftẽ as he is vnder ſtood for the good or evill *Angell*, which hath charge of a mans body, is painted in forme of a man as we read did appnare to *Brutus*; though ſome time he is painted as a young boy, ſometime as an olde decrepite man, [m] but alwaies with a crowne of plane-tree, which therefore was called *genialis arbor*, in the right hand he held a platter ouer an alter garniſhed with flowers: in the left he held a ſcourge hanging downe. The ſacrifice that was performed vnto the *Genius* was wine, and flowers: whereupon (as if by wine and fragrant odors, were ſignified all kinde of plea-

i Cic. lib. 2. de orat.

k Varro Rei. Ruſt. li. 1. c. 31.

l Plut. in Brut.

m Roſinant. lib. 3. cap. 14.

pleaſures) certaine proverbiall ſpeeches haue beene occaſioned: as when we ſee a man giuen much to his pleasure, and dainty feeding, we ſay he doth *indulgere genio, id eſt*, pampior or make much of his *Genius*: on the contrary he that is abſtemious and debarreth himſelf of his pleaſure, and dainty feeding, is ſaid *defraudare Genium*, to defraud his *Genius*: & *genialis* ſignifieth iocund or pleaſant. [n] It was alſo the cuſtome after meales to haue a cup paſſe round the table, much like vnto our *poculum charitatis*, & it was called *poculum boni geny*. [o] The *Grecians* had a like cuſtome, whence that cuppe was called by them, *κρᾶσις ἀγαθῆ δαίμονος*. But the reaſon, why they would not ſacrifice vnto their *Genius* by kindling ſome hoſt, as they did to their other gods, was, becauſe they iudged it vnfit to depriue any creature of his life vpon that day, when they firſt began their life (for this ſacrifice was perfourmed yearly by euery one vpō his birth day) *Horace* notwithſtanding doth more then intimate the killing of a young pigge in that ſacrifice

---cras Genium mero
Placabis, & porco bimeſtri. Hor. lib. 3. Od. 17.

The other *Genius* which is ſuppoſed to haue chief power ouer high wales and places, being therefore called *Genius loci*, was pictured in forme of a Snake, in which forme *Virgil* fained him to haue appeared, to *Æneas*, when he performed the funerall rites due vnto his Father *Anchies*, *Ænead. lib.* 5,

---Adytis cum lubricus anguis ab imis
Septem ingens gyros, ſceptena volumina traxit.

And *Perſius*.

Pinge duos angues, puteri ſacer eſt locus, extra.
Meiite, id eſt, duos Genios.

Another ſort of Gods was ſuppoſed to haue the keeping of mens houſes: [p] which they painted in forme of a dogge becauſe thoſe to whom the charge of houſes is committed ought to reſemble doggs, that is to ſeeme fierce, and angry towards ſtrangers, but gentle & kinde to thoſe of the houſhold

n Vid. Eraſm. adag.

o Cel. Rhod. lib. 28. cap. 6.

Sat. 1.

p Franc. Syl. in orat. pro Sext. Roſc. Am.

hold other properties wherein theſe *Lares* do reſemble dogs are recited by *Ouid. Faſt. 5.*

Seruat vterq́, domum, domino quoq́, fidus vterq́ eſt:
Compita grata Deo, compita grata canis:
Exagitant & lar, & turba Diana fures,
Pervigilantq́, lares, pervigilantq́, canes.

They were named *Lares*, & becauſe of the charge, they had over mens houſes, this word *Lar* is ſundry times taken for an houſe it ſelfe, as *paruo ſub lare, Horat.* In a little cottage, *homo incerti laris, id eſt*, a man that hath no houſe to dwell in. *Sen in Med.* And the cuſtome in ſacrificing vnto them, was to eat vp all whatſoeuer was left at the offering, for they thought it an heinous matter to ſend any of that ſacrifice abroad, either among their friends, or the poore: and thereupon when wee ſee a glutton leaue nothing in the platter, not ſo much as the cutteſh-morſell, we ſay *Lari ſacrificat, id eſt*, he ſacrificeth to his houſehold God.

LIB. 2. SECT. 2.

Of the Roman Prieſts with ſome particular Gods.

Aunus the ancienteſt of all the kings in *Italie* was the firſt, that brought any forme of religion into *Italie*. He conſecrated groues, gaue names vnto Cities, erected Temples, ordained ſacrifices, &c. from whom the Churches, as ſome ſay, were named *Fana*. But after *Faunus*, *Evander* comming out of *Arcadia*, and afterward being king of *Latium*, he inſtituted, and appointed many other ceremonies, which before were vnknowne to the Latines. After him *Æneas* comming from *Troy*, taught many of the *Troian* ceremonies: by whoſe examples *Romulus* and *Numa* were incited to adde many other kindes of holy rites, and at length reduced their whole religion into a certaine order, eſpecially *Numa* who that hee might gaine the more credit and authority to his new invented ſuperſtitions feigned that he had conference about them every night with the goddeſſe *Egeria*. My intent therefore is, to ſpeake firſt of the God, in whoſe honour theſe holy rites were performed, and then to deſcend vnto the Prieſts, which were to performe them, ſhewing withall the ceremonies they vſed in the performance.

Lact. de fall. rel. l. 1. c. 22.

CAP.

Cap. 1.

De Pane Lyceo, ſive Iunio: de Lupercis, & Lupercalibus.

Pan was ſuppoſed to be the God of the ſheep-heards, and is [a] thus deſcribed: he is pictured naked, hauing hornes in likeneſſe of the ſunne-beames, a long beard, his face red like the cleere ayre, in his breſt the ſtarre *Nebris*, the neather part of his body rough, his feet like a Goat: in one hand he holdeth a pipe, in the other a ſheep-heardes crooke, and alwaies is imagined to laugh. [b] Hee was worſhipped firſt in *Arcadia*, and there called the God *Pan Lycaeus*, but afterward hee was had in great eſteeme at *Rome* [c] and in the honour of him certaine ſacrifices, and games called *Lupercalia* were ſolemnized by the *Romanes*. [d] There he tooke the name *Inuus*, or as ſome ſay *Iunus*. Concerning the time, when theſe ſacrifices were to be performed; it was vpon the [e] vnfortunate daies of the month *Februarie*, which hath his name *à februando*, from purging: whence the feaſt or game is as a purification; though the Latine word ſignifieth as much as a feaſt of wolues, in a memoriall that *Romulus* and *Remus* were nurſed by a ſhee-woolfe. This ſeemeth very probable, becauſe the Prieſts, which were called *Luperci* beganne their courſe at the foot of the mount *Palatine*, called by the *Romans Lupercal, id eſt*, the place, where the woolfe nurſed [f] *Romulus*. The ceremonies were theſe: the hoaſt (being two Goats) was to bee ſlaine; and two Noble mens ſonnes were to bee preſent, whoſe foreheads being blouded with the kniues of them that had ſlaine the Goats, by and by were to be dried vp with wooll dipped in milke. Then the young boyes muſt laugh immediatly after their foreheads were dry. That done they cut the goats skins, & made thongs of them, which they tooke in their hands, and

[a] Servius in Virg. Ecl. 2.

[b] Feneſt. de ſacerd. cap. 2,

[c] Feneſt. ib.

[d] Pomponius Lætus de Sacerdot. cap. de Luper.

[e] Plutarch. in Romulo.

[f] Plutarch. in Romulo.

ran with them all about the citie ſtark-naked (ſaving they had a cloath before their privities) and ſo they ſtrooke with thoſe thongs all they met in the way. The young wiues did never ſhun them at all, but were well contented to bee ſtriken with them; beleeuing it helped them to bee with childe, and alſo to be eaſily deliuered. Moreouer it is to be noted, that a dogge was ſacrificed at this time, becauſe there is a naturall antipathie, or contrarietie of nature, betweene the dogge and the woolfe: whereby *Romulus* thought to teſtifie his gratefulneſſe vnto the woolfe for her paines in nouriſhing him. The reaſon why the Prieſts ran vp and downe the ſtreets naked, was, becauſe that *Pan* the God of this ſacrifice was painted naked. As the feaſt, ſo alſo the place from whence they came, and likewiſe the Prieſts had their names *à Lupa*, which ſignifieth a woulfe. Some Authors haue obſerued three ſorts of the *Luperci*, ſome called *Fabiani*, ſome *Quinctiliani*, from *Fabius* and *Quinctilius* their gouernours: the third ſort, which [g] *Roſinus* affirmeth to haue beene added in the honour of *Iulius Caſar*, I cannot find according to his quotation in *Suetonius*. But thus much *Suetonius* ſaith in [h] another place, namely that *Auguſtus Caſar* when he was chiefe Pontifie did reſtore theſe games againe being formerly aboliſhed.

[g] Roſin. ant. lib. 3. cap. 2.

[h] Sueton. in Auguſt.

Cap. 2.

De Cerere, & ſacris eius.

CEres otherwiſe called *Eleuſina* was honoured firſt among the *Grecians*, afterward among the *Romans*, as a Goddeſſe, which firſt taught men the skill of huſbandry.

Prima Ceres ferro mortales vertere terram
Inſtituit. Virg. Georg.

Whence ſhee is ſometimes *metonymicè* taken for corne, as

Credula

Credenda Ceres aruis. Ovid. It is ſeed time. She is called *Ceres*, [i] *quaſi Geres, á gerendis frugibus*, from bearing fruit: becauſe, as ſome ſay, by *Ceres* is vnderſtood ſometimes the earth it ſelfe: whence alſo δημήτηρ being the Greeke name of *Ceres* is ſaid *quaſi γῆ μήτηρ, id eſt*, the earth, which is the common mother of vs all. [k] Shee is painted in the habit of a Matron wearing a garland of corne, ſometime ſorrowfull with a lampe in her hand, as if ſhe were ſeeking out her daughter *Proſerpina* carried by *Pluto* into hell; and ſometime with a handfull of corne or poppy-ſeed. Vpon the firſt of the Kalends of Aprill the *Romans* were wont to performe ſacrifices vnto her, which they called *ſacra Graca, id eſt*, the Grecian ſacrifices, as likewiſe they tearmed the chiefe woman which did performe them, *ſacerdotem Graecam, id eſt*, the Greeke Miniſtreſſe, becauſe they were tranſlated into *Rome* out of *Greece* by *Evander*. The time of their ſolemnities was at the dawning of the day, and the Prieſts, which were only women which ran vp and downe with lamps in their hands in manner of mad women; into whoſe temple none that was guilty of any fault committed might enter: whoſe myſteries were to be buried in ſilence, and by no meanes to be blabbed abroad. And as it is to be ſuppoſed, that was the reaſon why all wine was forbad in this ſacrifice. So that hence [l] we ſay *Cereri ſacrificat*, he ſacrifices to *Ceres*, when he maketh a feaſt without wine.

[i] Cic. lib. 3. de nat. Deor.

[k] Roſin. ant. lib. 2. cap. 11.

[l] Plautus in Aulularia.

Cap. 3.

De Potitijs, & Pinarijs, Herculis ſacerdotibus.

Hercules had an altar erected in the memoriall of him neere vnto *Tiber* by *Evander*, vpon occaſion of the heards-mens complaint brought vnto *Evander* of him, whom they accuſed to haue ſlaine their chiefe heards-man *Cacus*, the hiſtory being [m] thus. *Hercules* after his conqueſt

[m] Seru. Æn. lib. 8.

queſt ouer *Geryon* brought away with him certaine goodly Oxen, and as well to reſt himſelfe, as to paſture his Oxen, he laid him downe to ſleepe in a greene field neere the riuer *Tiber*. In the meane while a certaine heards-man called *Cacus* happened to come that way, and perceiuing *Hercules* to bee in a ſound ſleep, he ſtole away two of his Oxen, which he hid in a caue, or hollow rocke, pulling them in by the taile backward, thinking that *Hercules* when he ſhould look his oxen and ſee the print of his footſteps, would eaſily beleeue, that his oxen had rather gone out from that rocke then into it, as indeed he did for a time beleeue: but afterward by the bellowing of the oxen within, anſwering their fellows without, *Hercules* entred the rock, and finding the theefe *Cacus* there with his oxen, he killed him, by reaſon of which murder he was brought before *Evander*, and after a while knowne to be the *Hercules*, of whom the Propheteſſe *Carmenta* had foretold vnto *Evander*, that he ſhould be a God. Wherevpon *Evander* preſently ſaluted him by the name of *Hercules* the ſonne of *Iupiter*, and in honour of him cauſed an altar to be built there in that place: vpon which yearely was to bee offered vp an heifer which had never borne yoke; and that this ſacrifice might bee had in the more eſteeme, two Noble men well ſtroken in yeares, and of good repute among the *Romans*, one of them being called *Potitius*, and the other *Pinarius* were appointed as the Prieſts to performe theſe ſacrifices, from whom ever after *Hercules* his Prieſts were called *Potitij*, and *Pinarij*. Where by the way we muſt obſerue, that *Pinarius* was not the ſur-name of this Noble-man, but a name added vnto him, intimating his, and his ſucceſſours puniſhment for not comming ſoone enough according to the time appointed by *Hercules*. For, as [n] diverſe writers teſtify, the entralls of hoaſt were almoſt eaten vp by the family of *Potitius*, before *Pinarius*, and his familie came; and in puniſhment of their negligence *Hercules* enioined the *Pinarij* never after to eat of the entrals, giuing them this name *Pinary* at that

[n] Serv. Ænei. lib. 8.

that time, from the Greeke word λιμὸς signifying hunger.

Cap. 4.

De Fratribus arvalibus.

THis College or company of Roman Priests may be Englished *the Arvall fraternity*: the number of them being twelue, eleuen of them naturall brothers, sons to *Acca Laurentia Romulus* his foster mother; [o] for which respect *Romulus* yeelded himselfe her adopted sonne, instituting this order in the honour of *Ceres* and *Bacchus* for the plentie of wine and corne vnto whom they did offer vp certaine sacrifices called *Ambarvales hostiæ, quod antequam mactarentur ter circum arua ducebantur*, according to that of *Virg. Georg.* *Ter, nouas circum felix eat hostia fruges*, that they being therewith appeased might the willinger cause the earth to fructifie, & added vnto the former eleuen as the twelfth priest or brother to helpe in the performance of this publike sacrifice, moreouer beside the performance of this sacrifice, these twelue were appointed *arbitrators*, or iudges to decide controuersies cócerning landmarks and bounds of the field, from whence they tooke their name *fratres Arvales*. Their place dorall ornaments was a garland of wheat bound vp with a white riband, this being, as [p] *Plin.* writeth, the first crowne, or garland amongst the Romans.

[o] Fenest. de Sacerd. c. 3.

Hosp. de orig. Monach. c. 10.

[p] Plin. lib. 17. c. 3.

Cap. 4.

De sexaginta Curionibus.

AFter that *Romulus* had diuided the whole body of the Romans into three tribes, or wardes, and moreouer diuided those three wards into thirtie parishes, called *Curiæ*, he ordained out of each *Curia* two parish Priests or Curats called *Curiones*, or *Flamines curiales*; which were pub-

publikely to offer vp ſacrifice in the behalfe of the people. Neither was every one equally capable of this honour of Prieſthood; [q] but he was to be at the leaſt fiftie yeare olde, of a life vnſpotted, and a bodie vnmaimed. And over all theſe there was one which had chiefe rule, and therefore was called *Curio Maximus*, the Biſhop, or chiefe Prelate: and theſe ſacrifices were called *Curionia*. [r] Their ſacrifice being ended each pariſh had a feaſt in a common hall built for that purpoſe: it was called *Domus Curialis*, and ſometimes *Curia*.

[q] Dion. Hal. lib. 2.

[r] Dion. Hal. lib. 2.

Cap. 6.

De Auguribus, & eorum Collegio.

AMongſt other kinds of Fore-tellers we read of three principally vſed in former time, namely, *Aruſpices*, *Auſpices*, & *Augures*: all which we engliſh Sooth-ſayers, though the Latine words doe import a maine difference worth our obſeruation; all are alluded vnto by *Ovid.*

Hoc mihi non ovium fibra, tonitruſve ſiniſtri,
Linguaue ſervata, pennaue dixit avis.

Ovid. triſt. l. 1. Eleg. 8.

The *Aruſpices* did divine, or foretell things to come by beholding the entrals of beaſts ſacrificed: whence they had their name. *Ab aras inſpiciendo*, frō beholding the altars. The *Auſpices* did foretell things by beholding the flight of birds, ſo that *Auſpices* are ſaid *quaſi aviſpices*, *ab aves aſpiciendo*. The *Augures* did divine frō hearing the chatting or the crowing of the birds: whence they are called *Augures ab avium garritu*, from the chirping and chatting of birds. Theſe two laſt kinds of ſoothſaying haue occaſioned theſe, and the like phraſes, *bonis avibus*, or *auſpicijs*, with good lucke, *malis avibus*, *id eſt*, with ill lucke: and becauſe they would beginne nothing *inauſpicato*, *id eſt*, without the counſell of the *Augures*, hence *Auſpicari rem* hath beene tranſlated, to beginne

[s] Fr. Syly. in orat. pro Cincinno.

ginne a matter. The colledge of the *Augures* at Rome was first appointed by [v] *Romulus* himselfe being very expert in soothsaying, there being at the first but three, namely one of each tribe: (The word *Augur* being not taken in his owne proper sense, and signification aboue-mentioned; but generally by the trope *Synecdoche*, signifying all kinds, and sorts of diuining whatsoeuer, whether it were by obseruing the entrals of beasts, the flying, screeching, and chatting of birds, or thundring, or lightning in the heauen, or marking the rebounding of crumms cast vnto birds, which kinde of diuining was called *Tripudium*.) [x] *Seruius Tullius* the sixt Romane king, when he diuided Roome into foure locall tribes: *id est*. Regions, or quarters, then did he adde the fourth *Augur*, all of them being elected out of the *Patricij*, or the nobility of Rome. [y] In processe of time *Quintus*, and *Cnius egulinus* being chosen *Tribuni plebis*, *id est*, protectors of the commons, obtained that fiue other *Augures* should be chosen out of the commonaltie, and added vnto the former foure: at which time the Senate decreed that the colledge of *Augures* should neuer exceed the number of nine. [z] Notwithstanding *Sylla* being *Dictator* added six more, insomuch that their colledge encreased to the nnmber of fifteene: the eldest of which was called [a] *Magister Collegii*, the master, or *Rector* of the colledge. The *Augures* excelled other Priests in [b] this respect, because if any of them had beene conuinced of any heynous crime, he did not loose his office, neither was any other subrogated into his roome, although the Romane custome was, that if any other priest had committed any notorious offence hee should presently be discharged of his office, and another chosen in his place. [c] The manner how the *Augur* did obserue was this: He sate vpon a castle, or a towre, the ayre being cleere, and faire without clouds, or raine, holding a crooked staffe, (called in Latine *Lituus*) in his hand, where sitting in his soothsaying robe, called *Lana*, and in Greek χλαῖνα, παρὰ τὸ χλιαίνειν, *à calefaciendo*, from heating, because it was well lined

[v] Pomp. Lætus cap. de Augur.

[x] Rosin. antiq. lib 3. cap. 8.

[y] Rosin. ibid.

[z] Rosin. id.

[a] Alex. Gen. dier. l. 5. c. 19.

[b] Alex. ib.

[c] Pomp. Lætus, c. de Aug.

lined within, being garded in the out side with purple and crimson gards) hauing his head couered, and his face turned toward the east, so that his back was west-ward, his right side south-ward, and his left north-ward. Being thus placed he quartered out with his crooked staffe the heauen into certaine *templa, id est*, Regions, or places, obseruing in what region the birds did appeare: Then killing his sacrifice, and offering vp certaine prayers called *Effata*, he proceeded in manner as followeth. But first suppose we for our better vnderstanding hereof, that now the *Augures* were to resolue the people, whether the Gods would assent that *Numa Pompilius* should be King. The *Augur* hauing done as aboue is shewed, his *Lituus* being in his left hand, he reached forth his right hand putting it vpon *Numa Pompilius* his head, vsing this forme of words, *Iupiter pater, si fas sit Numam Pompilium, cuius ego caput teneo, regem Romæ esse, vti nobis signa certa, ac clara sint inter eos fines, quos feci, id est*: If it be lawfull for this *Numa Pompilius*, whose head I hold to be king of *Rome*, shew some manifest tokens within these regions, or quarters which I haue described. Then if he obserued luckie signes & tokens, he presently pronounced *Numa Pompilius* king of *Rome*: if he perceiued vnlucky tokens, then did he *obnunciare*, or gainesay, and shew that the matter proposed was not pleasing to the Gods. Whereby the way we must note, that nothing was confirmed by the *Augurs* without the appearance of two lucky tokens one after another; neither was any thing gainesaid by the appearance of one only euil token. The distinctiõs of the soothsayings haue beene takẽ, some from the event, & thence are they called *prospera*, luckie, or *aduersa*, vnluckie. Some from the manner of their appearing, [d] and that was either wished being called therefore *impetratiua*; or vnwished caled *oblatiua*. Some from the diuersity of things which offered themselues in time of diuining, and so there were fiue distinct sorts: The first was by the obseruing of lightning, and thunder from heauen; the second from the flying, and chatting

[d] Serv. Æneid. lib. 6.

chatting of birds; the third from bread caſt to pullets, or little chicken; the fourth from foure footed beaſts, which either ſhould croſſe the way, or appeare in ſome vnaccuſtomed place; the fift from thoſe caſualties, whereby the Gods doe make their anger appeare vnto vs. Of this ſort are thoſe voices which we heare we knownot whence; (as [c] *Cadmus* heard when he ouercame the ſerpent) the falling of ſalt towardes vs at the table, the ſhedding of wine vpon our cloaths. From which caſualties, and the like the *Augures* would pronounce either good fortune, or bad to enſue: And theſe tokens were therefore called *Dira*, becauſe thereby *Dei ira nobis innoteſcit*, the Gods anger is made knowne vnto vs. Now the things that in diuining time appeared on the left-hand where commõly tokens of good lucke, becauſe the giuers right hand in beſtowing a benefit is oppoſite to the receiuers left hand. Whence [f] *ſiniſtrum* though in humane affaires ſignifieth as much as vnluckie, yet in thoſe holy rites of diuining *ſiniſtrum* is taken in a contrary ſenſe as *Avis ſiniſtra*, good lucke, *Intonuit lauum*, it hath thundered luckily, we ſhall haue good ſucceſſe: and it is ſaid a *ſinendo*, becauſe the Gods thereby doe ſuffer vs to proceed in our purpoſed proiects. And therefore *Tully* ſaith, *lib. 1. de diuinatione*, *A ſiniſtrâ cornice ratum, & firmum augurium fieri*: and in the law of the 12 tables it is ſaid, *Ave ſiniſtrâ populi magiſter eſto*, [d] The *Grecians* from hence in the iudgement of *Lipſius* haue called the left hand ἀριστερὰν from ἄριστον ſignifying the beſt.

[c] *Vox ſubito audita eſt neq; erat cognoſcere promptum Vnde ſed audita eſt* Ouid. Met. lib. 3. fab. 1.

[f] Serv. Ænei. lib. 2.

[d] Lipſ. Elect. lib. 2. cap. 2.

Cap. 7.

De Tripudiis & pullariis.

THis kinde of coniecturing is called *auſpicium coactũ*, [g] *quoniam neceſſe erat offâ obiecta cadere fruſtum ex pulli ore, cùm paſcitur*. The word *Tripudium* is vſed by a *ſyncopation* for *terripudium*, which is as much as *terripavium*

[g] Cic. de diuinat. lib. 1.

vium, id est, a dancing or rebounding of any thing vpon the ground: for *pavire* is the same with *ferire*. [h] Others say *Tripudium quasi tritio pedum*. It is here taken for the diuining, or coniecting of good or euill to come by the rebounding of crummes cast to chicken in a coop or pen: whence the *Augur* from these pullets or chiken was called *Pullarius id est*, A Bird-prophet. [i] The manner in obseruing was this. As often as by this kinde of coniecting they desired to know the Gods pleasure concerning the enterprizing of any matter, early in the morning those that were skilfull in this kinde of obseruation, repaired vnto the place where the chicken were kept, where silence being commanded, and the coope opened, they cast crummes of bread to the chicken. Now if the chicken either came slowly, or not at all vnto the bread, or if they walked vp and downe by it not touching it, then was it a token that the matter to be enterprized was displeasing vnto the Gods: but if contrarily the chicken did hastily leape out of the coop and eate so greedily of the crums; that some should fall out of their mouths againe, then the *pullarius*, that is, the *Augur* pronounced that it was well pleasing to the Gods, and encouraged the enterprizing of what they had intended cheerefully: and this was called *Tripudium solistimum*. This kinde of coniecting may seeme to haue its originall from the *Lycians*, [k] who as often as they desired to foreknow the successe of any enterprise, they went vnto the fountaine dedicated to *Apollo*, into which they cast baites for the fish: now if the fishes did eate them, it did betide goodlucke; if otherwise they neglected the baites, then it did betoken some euill euent.

[h] Humbert. in lib. 6. Ep. fam. Cic.

[i] Alex. Gendier. l. 1. c. 29.

[k] Alex. ib.

CAP.

Cap. 8.

De Aruſpicibus, Aruſpicinâ, & Extiſpicio.

THis kinde of ſoothſayers as they were called *Aruſpices ab aras aſpiciendo* from beholding the beaſt vpon the altar; ſo were they called *Extiſpices, ab exta aſpiciendo*, from beholding the bowels or entrals of the beaſt, called in Latines *Exta*. In this kinde of ſouthſaying the *Aruſpex* obſerued in manner as followeth[l]: firſt whether the beaſt to be ſacrificed came vnto the altar willingly, without plucking and haling; whether he died without much ſtrugling, or lowd bellowing; at one blow or many; whether any vnluckie obiect were ſeene, or heard by them, whiles they were ſacrificing. Againe after the beaſt was ſlaine, then would they obſerue, whether the bowels were of an vnnaturall colour, whether they were not vlcerous, exſiccate, or impoſſumated: moreouer they would diuide the bowels into two parts, the one they woulde call *partem familiarem*, from whence they would fore-tel what would befall themſelues, and their friends; the other they would call *partem hoſtilem*, whence they gathered predictions touching their enimies Hence *Manto* in [m] *Seneca* deſcribing the entrals of his killed ſacrifice ſaith, *Hoſtile validò robore inſurgit latus*, meaning by *hoſtile latus, partem hoſtilem*. Afterward when the ſacrifice was to be burned, they conſidered, whether the flame of the fire was ſmokie, whether the ſmoke rolled, and tumbled in the aire, whether it were of any continuance or no: for all theſe were vnfortunate tokens, as the contrary did betoken a good and fortunate iſſue to their deſignments. Theſe laſt which obſerued the fire and ſmoke were called by a more peculiar name *Capnomantes* ſmoke-augurers from the greeke words καπνὸς, ſignifying ſmoke, & μάντις, *id eſt*, *vates*, or a ſouthſayer. The firſt inſtructiõs that the *Romans* receiued

[l] Senec. Ged. Act. 2 ſcen. 2.

[m] Oedip. Act. 2 ſcen. 2.

was from the *Hetruſci*, (who as they themſelues ſay) receiued their knowledge from a little boy, which they named *Tages*, the hiſtory being thus. [n] When the *Hetruſci* were plowing their lands, vpon a ſuddaine vpſtarted this *Tages* out of one of the furrowes vſing diuers ſpeeches vnto the plow-men: but they being much affrighted at this ſudden, & ſtrange viſion, beganne with a lowd cry to lift vp their voices; vpon occaſion whereof many other people flocked thither, where he gaue many good inſtructions concerning this kinde of ſooth-ſaying, which were preſently recorded in books, and practiſed afterward by the *Hetruſci*.

n Cic. de diuinat. *Indigenæ dixere Tagen, qui primus Hetruſcam edocuit gentem, caſus aperire futuros* Ouid. Met. lib. vlt.

Cap. 9.

De Flaminibus

THe mitre or head-ornament which theſe Prieſts did weare, was called in old time [o] *Flama*, whence the Prieſts tooke their name *Flamines*. The [p] cuſtome amongſt the *Grecians*, as likewiſe afterwards among the *Romanes* was, that the kings ſhould aſwell performe ceremonies, and holy rites of religion, as diuill buſineſſes. But *Numa Pompilius* perceauing that forraine warres did oftentimes occaſion the kings abſence, in ſo much that thoſe religious ceremonies which he himſelfe perſonally ſhould perfourme were of neceſſity ſometimes neglected, hereupon he ordained out of the *Patricij* three Prieſts to perfourme that diuine ſeruice vnto *Iupiter*, *Mars*, and *Romulus*, which he himſelfe otherwiſe ought to haue perfourmed, calling the firſt *Flamen Dialis*, the other *Flamen Martialis*, and the laſt *Flamen Quirinalis* from *Romulus*, which was often called *Quirinus*.

o Roſin. antiq. lib. 3. c. 15.
p *Rex. Anius. vex idem hominum Phœbiq; ſacerdos.* Virg.

Siue quòd haſta quiris priſcis eſt dicta Sabinis,
Bellicus a telo venit in aſtra deus.
Siue ſuo regi nomen poſuere Quirites.
Seu quia Romanis iunxerat ille Cures.

In

In proceſſe of time twelue others choſen from the commons were added vnto theſe, but with this note of diſtinction, that the three firſt were had in greater eſteeme, and were called *Flamines maiores*, high Prieſts; the other of leſſe note called *Flamines minores*, inferior Prieſts. The chiefe of all was the *Flamen Dialis Iupiters* high prieſt, and whereas euery one did were acertaine bonnet in forme of a mitre, which ſometimes was called *Pileum*, ſometime by the figure *ſynecdoche Apex* (whereas *Apex* doth properly ſignifie onlie the toppe of the bonnet) [q] none might weare *Albo-galerum*, *id eſt*, a white mitre, but only *Iupiters* Prieſts, and that was to be made of a white ſheepe-skin, after the ſheepe had beene ſacrificed. Whatſoeuer malefactor could eſcape vnto this Prieſt, he ſhould not be puniſhed that day. None was eligible into this office, but he that was married: neither was it lawfull for him to marry twice, but if his wife died, *Flaminio abibat, id eſt*, hee reſigned his ſacerdotall office. To him was permitted a rich robe of ſtate, and a currule-chaire: none might fetch fire out of his houſe; vnleſſe it were to perfourme ſome ſacrifice therewith. [r] None might barbe or poll him, but a free-man, and that with braſen ſciſſers. Many other ceremonies there were which concerned this *Flamen*, as likewiſe time added many other *Flamines*, namely [s] euery God one, yea ſometime thoſe threeſcore pariſh prieſts, which formerly were called *Curiones*, were called *Flamines Curiales*; and diuers Emperours after their death had alſo their *Flamines*. [t] Moreouer wee muſt note that thoſe prieſts wiues were called *Flaminica*; Their miniſters (for they were woont, when they went to ſacrifice to take a boy or a maide with them) *Flaminij*, or *Flaminiæ*: And the Chiefe-flamens dwelling houſe waas called *ades Flaminea*, or *Flaminia*. But as it ſeemeth probable *Numa Pompilius*, and ſo the other kings ſucceeding him did ſtill reſerue their right and authority in holy matters ſo farre, that they would inſtruct other inferior prieſts, yea and ſpecially perfourme ſome ſpeciall ſacrifices themſelues.

[q] Alex Gen. dier. l. 6. c. 12.

[r] Seruius Æn. lib. 1.

[s] Feneſt de ſacred. cap. 5.

[t] Atex. Gen. dier. l. 6. c. 12.

themſelues: whereupon after that the kings authority was abrogated amongſt them, then that theſe ſacrifices might be continued they choſe a certaine Prieſt, which they preferred before the *Flamen Dialis*, but iudged him inferior to the *Pontifex maximus*, or Arch-Pontifie, and him they called, *Rex ſacrificulus*, and *Rex ſacrorum*, the King prieſt. To him once euery yeare the veſtall Nunns repaired, and vſed this forme of words, "*Vigilaſne Rex? Vigila.* King art thou awake? awake. For vnto him it did belong to bid holy-daies, and to prouide all things neceſſarie for publike ſacrifices. He was to inſtruct thoſe that ſought vnto him, the cauſes of the holy-daies, and to tell them what was lawfull and vnlawfull euery moneth, & vpon the fifth of the Ides of Ianuarie he ſacrificed a Romane to *Ianus*. He was likewiſe wont to offer vp a ſacrifice in the *comitium* or great hall of iuſtice, which being finiſhed he ranne as faſt as he could out of the market-place without delay. His wife was called *Regina ſacrorum*, the Queene-prieſteſſe, and was wont vpon the Kalends of euery month to ſacrifice a porker or a lambe in her place in the honour of *Iuno*.

n Serv. in Æn. 10.

Cap. 16.

De marte, ſive Mauorte, & Salijs Palatinis Martidicatis.

MArs otherwiſe called *Mavors* by the figure *Epentheſis*, as wee ſay *Induperator* for *Imperator*, was reputed the God of warre, and ſo *Metonymicῶs* is vſed for warre as *vario Marte pugnatum eſt*, the battell was doubtfull; *proprio Marte*, by ones owne ſtrength, and labour. He was the ſonne of *Iuno* onely without company of her husband: for when *Iuno* was greatly diſpleaſed with her ſelfe, that *Iupiter* by ſtriking her head without company of a woman did bring forth the goddeſſe *Minerua*, ſhee by the counſell

counſell of the goddeſſe *Flora* touched a certaine flowre in the field of *Olenius*, by vertue whereof ſhe immediatly conceaued the God *Mars*. This God by reaſon of his dominiõ in warre, the Romans painted fiery, ſometimes in his chariot ſometimes on horſe-back: with a iauelin in one hand, and a ſcourge in the other. In old coines there was ſometimes the picture of a cocke ioined with him, to ſhew the vigilancy, & carefulneſſe that ſouldiers are to vſe. He was called [x] *Gradiuus à gradiendo*, from marching in battell againſt his enmies. He had a Temple without the citie, whence he was called *Extramuraneus*. [y] Neere vnto this temple without the gate *Capena* did lie a ſtone of great note, which vpon great drouths the people would bring into the city, and preſently raine would followe, wherevpon it was called the Raine ſtone, *Lapis manalis à manando*. *Numa Pompilius* in the honour of *Mars* ſurnamed *Gradiuus* ordained 12 dancing Prieſts called *Salij* [z] *á ſaliendo* from dancing, which number afterward we finde to haue beene doubled by *Tullus Hoſtilius* in the warre againſt *Fidena* a towne of the *Sabines*. The former 12 being called *Salij Palatini*, from the Palatine mount, where they did beginne their mauriske; the others *Collini* from the hill where their chappell ſtood; [a] and ſometimes *Quirinales*, and ſometimes *Agonales*: ſo that the whole college contained 24 Prieſts. [b] The occaſion of their firſt inſtitution was this: vpon a certaine time in the raign of *Numa*, the plague or ſome other contagious ſickneſſe was very hot among the Romans, inſomuch that no ſacrifice, or holy offering could remoue it: at that time a certaine braſen target, or ſcutchion called in Latine *auea pelta*, or *ancile*, bigge at both ends, but cut like an halfe moone on each ſide fell from heauen into *Numa* his hands, with a certaine voice promiſing all health vnto Rome ſo long as that braſen target could be kept ſafe. Wherevpon *Mamurius* a cunning workman by the appointment of *Numa* made eleuen other *ancilia* ſo like the firſt, that neither could be knowne from the o

x Roſin. ánt. lib. 2. c. 10.

y Roſin. ibid.

z Plutarch in Numa.

a Dion. Halicarn. lib. 2.

b Plutarch. in Numa.

ther: (to the intent that if any should bee so wicked minded as to steale it, he might faile of his purpose by mistaking one for another.) These twelue Priests had the custody and keeping of them committed to their charge, & in the month of *March* every yeare they apparelled themselues with a party coloured coat, called *tunica versicolor*, girt close to their body, with a belt, or sword-girdle, and a brest-plate of harnesse called *aneum tegmen* vpon that, and a robe of estate called *trabea* clasped about them vpmost of all. Vpon their heads they did weare *apices, id est*, caps [e] much like vnto the *Persian* bonnet called in greeke *κυρβασίας*, or *τιάρας*. They did somewhat resemble our head-peeces in warre made close vnto the head, with a crest of cloath vpon the top, whence some haue called them *galeas*. They being thus apparelled daunced about the *Forum*, or market place, and the Capitoll with short swords by their sides, a iauelin in their right hand, and their *ancile* in the other; vsing certaine songs either of the Gods, and those they called *Iannalij, Iunonij*, and *Minervij*; or of men, and those they called *axamenta*, because in those songs they did *axare, id est*, nominate and call vpon the names of some well-deseruing men: as *Mamurius* which made those eleuen scutchions, was often called vpon in those songs. Vpon these their festivall daies they had excesse of cheere, whence [d] *Horace* hath vsed *saliares dapes*; to signifie dainty fare.

[e] Dion. Halicar. lib. 2.

[d] Horat. lib. 1. Ode 37.

Cap. II.

De Fœcialibus, & Patre patrato,

THese *Fœciales* were officers at armes, or Heralds, to denounce warre, or proclaime peace, appointed therevnto at first [e] by *Numa Pompilius*. [f] The chiefe part of their office was to dissuade the *Romans* from molesting any confederate nation with vniust warre: and if any confederate nation

[e] Pomp. Læt. de sacerd

[f] Dion. Halicar. lib. 2.

nation did offer iniurie vnto the *Romane* people, then did theſe *Fœciales* goe as Embaſſadours vnto them, perſwading and exhorting them to yeeld the *Romans* their right: but if they continued thirtie daies obſtinate refuſing to yeeld vnto that, which ſhould be iuſt and right, then did they preſently denounce warre againſt them, caſting forth a dart in token thereof: which denunciation was [g] called *clarigatio à clara voce, qua vtebatur Fœcialis.* Others are of opinion that whē-ſoeuer warre was denounced, this Herald at armes ſhould [h] turne looſe a Ramme vnto their enimies borders; ſignify-ing thereby that their fields ſhould ſhortly become paſture for the *Romanes*: from which cuſtome wee ſay of one that challengeth another into the field, *Arietem emiſit.* Againe if the *Imperator*, or Lord-Generall had done ought againſt his oath, theſe *Fœciales* by their ſacrifice did avert the wrath of the Gods from him. The chiefeſt of them was called *Pater-patratus*, a perfect father: for he onely could be *Pater-patratus*, which had both children of his owne, and his father alſo aliue. They were called *Fœciales à fœdere faciendo*, from making a league or peace betweene nations. This league which wee in Latine doe call *fœdus*, the *Romans* in olde time [i] did call *Fidus*, as *Ennius* and *Pighius* witneſſe: whence theſe *Fœciales* were tearmed alſo *Fidei Flamines.*

[g] Serv. Æn. lib. 10.

[h] Vid. Eraſm. adag.

[i] Pighius Sep-tim. lib. 1.

Cap. 12.

De Duumviris, Decemviris, & Quindecimviris ſacris faciundis: item de Sibyllis.

THis prieſthood had his firſt inſtitution from *Tarquinius Superbus*, whoſe office was as well to expound, as to keepe the oracles of thoſe ten Propheteſſes ſo famous throughout the world, called *Sibylla.* Concerning whom [k] *Munſter* hath theſe words: In times paſt there came

[k] Munſter. in ſua Coſmog. lib. 2.

a ſtrange woman to *Tarquinius* the king offering nine books full of the *Sibylline* oracles to be ſold: But *Tarquinius* thinking the books too deere, refuſed to buy them. The woman departing burned three of theſe books, and came the ſecond time vnto *Tarquinius*, demanding as much for thoſe ſixe books, as formerly ſhe had done for the nine. *Tarquinius* then began to deride her, whereat the woman departed, and burned three more, returning againe vnto *Tarquinius*, & aſking as much for the three left, as ſhe asked at firſt for all 9. Then began *Tarquinius* more ſeriouſly to bethinke himſelfe thereof, and ſent for his *Augures* asking counſell and advice of them. And they vnderſtood by certaine ſignes obſerued, that the king had refuſed ſome ſpeciall goodneſſe ſent from the Gods: and for the bookes that remained they aduiſed that the woman ſhould haue what ſhee asked: As ſoone as the woman had deliuered her books ſhe preſently vaniſhed, and was neuer ſeene againe, only warning them to keep the bookes as ſafe as poſſibly they could. For the ſafe keeping of theſe, *Tarquinius* choſe two of the noble men, or *patricij*, calling them *Duumviri*, appointing them as well by ſtudy to expound, as with care to keepe thoſe oracles. In proceſſe of time the people obtained, that tenne ſhould be appointed to this office, [l] fiue of them being choſen out of the commons and fiue out of the nobles: and then were they called the *Decem-viri*. Afterward by *L. Sylla*, as it is thought, fiue more were added, ſo that they were then called the *Quindecim-viri*: nay the number was encreaſed by *Sylla* vnto forty, [m] as *Seruius* thinketh, but ſtill called by the name of *Quindecim-viri*. Of theſe women that had the ſpirit of prophecie tenne were very famous: the firſt was called *Perſica*, the ſecond *Libyca*, the third *Delphica*, the fourth *Cumæa*, the fifth *Erythræa*, the ſixt *Samia*, the ſeauenth *Cumana*, the eighth *Helleſpontia*, the ninth *Phrygia*, the tenth *Tiburtina*. They all prophecied of the incarnation of *Chriſt*. The place where theſe bookes were kept was within the Capitoll vnder ground

l Feneſte. de ſacerd. c. 13.

m Serv. Æn. lib. 6.

ground in a chest of stone, where they remained safe vntill the burning of the Capitoll, at which time they also were burned. Notwithstanding many of the prophecies haue beene knowne, partly by tradition, and partly being taken out of other copies in other countries. One of the prophecies concerning our Saviour Christ was vttered by *Sibylla Delphica* in manner as followeth: [n] *Nascetur Propheta absq; matris coitu ex vtero eius*, that is, There shall bee a Prophet borne without any copulation of the mother, even out of her wombe. It was spoken at *Delphos*. All their prophecies were of that certaintie, that when we would averre any thing to be vndoubtedly true, we vse to say it is *Sibyllæ folium*, as true as *Sibillaes* oracles. The *Cumæa Sibylla* did write her oracles at the mouth, or entrance of her caue in leaues of trees, which the fiercenesse of the winde did oftentimes so scatter, that they could hardly be brought in order againe: insomuch that when we would shew the great difficultie of bringing things in order, we may vse [o] *Politian* his wordes, *Laboriosius est, quàm Sibyllæ folia colligere*, it is easier to gather together *Sibyllaes* leaues. This name *Sibylla* is not a proper name, but an appellatiue common to all women endowed with the spirit of prophecie, taking their denomination from [p] σιὸς, which is in the *Æolicke* dialect the same that Θεὸς, *id est*, God, and βουλὴ, *id est*, councell, because they did open and declare the counsell and determination of God vnto the people. It appertained also vnto these *Quindecimviri* aboue-mentioned to see, that sacrifice and divine service that supplications, and processions, expiations, and all ceremoniall rites were duely performed.

n Munster. in sua Cosmog. lib. 2.

Credite me vobis folium recitare Sibylla.

o Epist. lib. 1. epist. 1.

p Serv. Æneid lib. 6.

σιὸς enim Deos, non Θεὸς: & consilium non βουλὴν sed Σουλὴν appellabant Æolicæ [illegible] sermo. [illegible] de falsa religi[illegible] cap. 2.

CAP. 13.

De Bonâ deâ, & ſacris eius.

THis Goddeſſe, which is ſo famous by the name of *Bona dea*, is the globe of the earth, which is therefore tearmed *Bona dea*, the good goddeſſe, becauſe we reap ſo many good things from the earth. Shee is called alſo *Ops* the helping goddeſſe of *ope*, from helpe, becauſe by her helpe we liue. She is called *Fatua*, and *Fauna*, *id eſt*, the goddeſſe of ſpeech, becauſe young children doe neuer ſpeak vntill they are able to goe, and ſo haue touched the earth. The *Grecians* called her γυναικεία θεὸς, the female goddeſſe, becauſe that no male might bee admitted to her ſacrifices; nay the very pictures of men were at that time to bee couered. The inner roome, where her ſacrifices were, was called τὸ γυναικεῖον, the place for womens aſſemblies. [q] Thoſe that were chiefe in theſe ſacrifices were the Veſtall Nunnes. This good goddeſſe was ſuppoſed to be the wife of *Faunus*, and vpon a time to haue beene taken drunke with wine by him, for which fault *Faunus* is ſaid to haue beaten her to death with rods of mirtle tree. But afterward being ſorry for that he had done, in amends he made her a goddeſſe: and as it were ever after deteſting the mirtle tree, he allowing all other hearbs and flowers to be vſed in theſe ſacrifices, forbad the mirtle tree. Some ſay ſhe was ſo chaſt, that ſhe never was ſeene by any man but her husband, and in reſpect of her chaſtitie the mirtle-tree is forbid, becauſe it was conſecrated to *Venus*. But whereas in this ſacrifice they vſed wine, they called it not by the name of wine, but milke or hony: [r] whence they called the veſſell wherein the wine was put, *amphoram mellariam*, *id eſt*, the hony veſſell. This ſacrifice became very famous by reaſon of *Clodius*, who being in loue with *Pompeia*, *Iulius Cæſars* wife, came vnto theſe ſacrifices in womãs apparell

q Cic. orat. de Aruſp. reſponſis.

r Alex. Gen. dier. l. 6. c. 8.

apparell,& was found out by *Aurelia Iulius Cæsars* mother. This *Clodius* became so infamous for this,and other his adulterous prancks, that he occasioned a common proverb amongst the *Romans*, *Clodius accusat mœchos*, answerable to which our English saying is,One theefe accuseth another.

Cap. 14.

De Cybelle,& sacerdotibus eius.

THis goddesse *Cybele*, or rather *Cybelle* was in her infancy exposed vnto wild beasts vpon the hill *Cybellus*, where she being nourished by the wilde beasts afterward became a woman of admirable beauty,and being found by a sheepheards wife was brought vp by her as her owne child,and called *Cybelle* from the hill *Cybellus*. She excelled in all naturall gifts,and was the first that vsed a taber and a pipe,and cymbals among the Greekes. Moreouer shee tenderly loued children,and therefore was called *magna mater*: she was also called *mater Deorum*, the mother of the Gods:

Ipsa deum fertur genetrix Berecynthia. Virg.

She was called *Rhea à ῥέω*, to flow, because she doth flowe & abound with all kinde of goodnesse. She was also named *Pessinuntia* from the citie *Pessinus* a Mart-towne in *Phrygia*, where she had a temple. Moreouer she was called *Berecynthia* from the hill *Berecynthus* in *Phrygia*, where shee was worshipped. Her Priests were called *Galli*, and their chiefe gouernour *Archigallus*: they tooke their name from a certaine riuer in *Phrygia* called *Gallus*: of which whosoeuer dranke,he became so mad,that he would presently geld himselfe:(as in truth all her priests were enioyned to geld themselues with a fish shell.) The originall of which custome is rendred thus: *Cybelle* loued a young man of *Phrygia* called *Atys*: and him she appointed chiefe ouerseer for her sacrifice

[Pomp. Lætus de sacerd

fice vpon condition that he would keepe himselfe chast perpetually: But not long after deflowred a Nimph, for which fact *Cybelle* bereft him of wits and vnderstanding, so that he in his madnesse did geld himselfe, & would haue killed himselfe also, [t] had not the Gods in their commiseration towards him turned him into a pine-tree. In remembrance of him, euer after her Priests were gelded. Every yeare the *Praetors* did sacrifice vnto this Goddesse. But the performance of the holy and religious rites at that time did belong vnto a *Phrygian* man, and *Phrygian* woman chosen for that purpose: which according to the manner of their country being apparelled with a party coloured garment called in Latine *Synthesis*, or *amictus variegatus*, and carrying the picture of their Goddesse about with them in the streets, they stroke their breasts with their hands, keeping tune with the tabers, pipes, and cymbals, which other people following played vpon: The Priests were also called *Corybantes* from one *Corybantus*, which was one of her first attendants. And hereupon we call the cymbals *aera corybantia*. In this manner dancing about the streets they begged mony of the people whom they met: and hence were they named *Cybelle* her collectors, or her *circulatores, id est*, iuglers. Some called the μητραγύρτης from μήτηρ which in this place signifieth *Cybelle*, called the great mother, and ἀγύρτης a begger or gatherer of almes. [u] Others haue called them *Mitriaci*: But by what name soeuer they were called the place was so infamous by reason of their drunkennesse, and vncivilitie vsed at these times, that when they would point out a notorious naughty fellow, they would call him *circulatorem Cybellenum*. *Cybelle* her iuggler. Neither was it lawfull for any free borne to vndertake that office.

[t] *Cybelium Attis Exuit hac hominem truncoq; induruit illo.* Ov. Met.

[u] Rosin. ant. lib. 3. cap. 27.

CAP.

Cap. 15.

De Collegio Pontificum, & Pontifice Maximo.

THis word *Pontifex* is commonly tranſlated a Biſhop or Prelate, being called *Pontifices* in Latine, as alſo Pontifies in Engliſh frō one part of their office, which was to haue the ouerſight of a great woodden bridge called in Latine *Pons ſublicius*, being ſo great, that Carts and Waines might paſſe ouer it; hauing no arches to vphold it, but only great piles, and poſts of wood: [x] and that which is moſt remarkable in it, was that it was ioyned together onely with woodden pinnes, without any iron at all. Others are of opinion that they were tearmed *Pontifices quaſi potifices* from *potis* and *facio*, of which opinion *Lucane* ſeemeth to bee, according to that, *Pontifices ſacri quibus eſt commiſſa poteſtas.* Concerning the [y] number of them onely foure were appointed by *Numa*, all which then were to be choſen out of the *Patricij*: afterward foure more were added out of the Commons. Theſe were called *Pontifices maiores*, or chiefe Pontifies, to diſtinguiſh them from ſeauen other. which afterward *Sylla* added, and [z] called them *Pontifices minores*, inferiour Pontifies. The whole company of them was called the colledge of Pontifies. This college is priuiledged from all allegeance, being not bound to render an account of their doeings either to the Senate, or Commonaltie. They were to determine all queſtions concerning religion, as well betweene their Prieſts, as betweene priuate men. They had authority to puniſh any inferiour Prieſt, if he either detracted or added vnto thoſe religious rites, which were preſcribed him. They had their great Pontifie, whom they called *Pontificem maximum.* Theſe Pontifies were wont to exceed in their diet, inſomuch that when the Romans would ſhew the greatnes of a feaſt, they would ſay it was *Pontificia cœna, id eſt*, according to

x Plutarch. in Numa.

y Feneſt. de Sacerd.

z Roſin. antiq. lib. 3. c. 22.

our englisſh phraſe a feaſt for an Abbot. *Cœna adjcialis* is taken for the ſame. [a] *Lipſius* in the expoſition of the latter phraiſe taxeth the Printers negligence, and is of opinion that it ſhould rather be printed, *Cœna aditialis*, vnderſtanding thereby a ſolemne feaſt made by Magiſtrates in *aditu honoris*, at their entrance into their office, and at their day of inauguration.

[a] Lib. 4. de magnit. Rom. cap. 9.

Cap. 16.

De Epulonibus.

THe Pontifies in old time appointed three men, whom they [a] called *Triumviros epulonum* (from *Epulum* a feaſt) to haue the ouer firght of the feaſts made at ſacrifices; afterward by reaſon of two twice added, they were called firſt *Quinqueviri*, and at length *Septemviri Epulonum*.

[a] Lazius de Repub. Rom. lib. 3. cap.

Cap. 17.

De Titijs.

ANother ſort of religious men ther were which liued in the ſubvrbs of the citie an practiſed ſouthſaying; They were called *Titij* [b] from the name of the birds which they obſerued, which in latine were called *Titia*.

[b] Pancirollus lib. rerum deperditarum cap de mole Hadriani.

Cap. 18.

De Virginibus Veſtalibus.

NEere vnto *Caſtors* temple ſtood the religious houſe, or Nunnerie dedicated to the goddeſſe *Veſta*: where at the firſt were fowre, after 6. Virgins, or votaries elected.

elected, was office was chiefly to keepe the sacred fire: the extinction whereof proued ominous, and did portende some euill euent shortly to happen: And therefore for their negligence herein, as for all other small faults, they being had into a darke corner, stripped naked, and a curtaine drawne halfe way ouer them, the chiefe Pontifie scourged them: neither was it lawfull to kindle the fire once put out, with any other fire, but from the sun beames; for which purpose they had certaine instruments named [c] σκαφεῖα which were formed in the manner of a *pyramis*, but hollow, so that the beames being collected within the circumference, and meeting in the *vertex* did easily kindle any cumbustible matter put vnto it; but chiefly if the matter was of blacke colour: because, as philosophie teacheth, a darke colour doth congregate, or collect the beames, whereas witnesse doth disperse them. A second part of their office was to worke reconciliation betweene parties offended, as appeareth by [d] *Suetonius*: where we may read that by their intercessiou *Sylla* was reconciled to *Cæsar*. They were chosen into this place betweene the sixth, and the eleauenth yeare of their age: and they were to remaine in this Nunnerie 30. yeares space, 10. yeares to learn their ceremonies and misteries, 10. yeares to exercise them, and 10 yeares to instruct others: within which space if they had suffered their bodies to be defiled, they were to vndergoe that fearefull punishment * afore mentioned. But these 30. yeares being expired, marriage was lawfull for them, so that they laid aside their scepters, their fillets: and other their sacerdotall ornaments. Notwithstanding those which did marrie in the ende died fearefull deathes: wherevpon they chose rather to obstaine commonly. The *Romanes* had them in great honour so that they neuer walked abroad but with an yron scepter in their hands, and whatsoeuer malefactor met them (if the Nun would take her oath it was by chance) he escaped punishment. They wer named *Vestals* from their goddesse *Vesta*, which word (as [e] *Munster* writeth) is deri-

c Plutarch in Numa.

d Suet. in Iulio.

* Vid. sup. p. 11.

e Munst. in sua cosmog. l. 2. c. 9

ued from the Heabrew *radix* ſignifying fire. The eldeſt was callrd *Maxima Veſtalis virgo, id eſt*, the Lady prioreſſe, or chiefe gouerneſſe.

Cap. 19.

De veterum ſacrificijs & ritu ſacrificandi.

WHatſoeuer was burnt or offered vp vnto the Gods vpon an altar it had the name of a ſacrifice: and ſometimes it was called *Victima, quòd vincta ad aras ſtabat*, becauſe the beaſt to be ſacrificed ſtood bound vnto the altar. Sometimes *Hoſtia*, from an abſolute verbe *Hoſtio*, which is to ſtrike: becauſe certaine vnder officers called in latine *Popæ* (ſtanding by the altars, all their vpper part naked, and a lawrell garland vpon their head) did *Hoſtiare victimam, id eſt*, ſtrike downe and kill the ſacrifice. Others are of opinion, that this name *Hoſtia* is taken from *hoſtis*, an enimie: according to that of *Ovid. Hoſtibus à domitis hoſtia nomen habet*: becauſe either before warre to procure the Gods faueur, or after warre in token of thankfullneſſe, they did *hoſtiam ferire, id eſt*, offer vp the ſacrifice. The ſecond difference of ſacrifices haue beene occaſioned in reſpect of the time, and ſo they haue beene called *Præcidaneæ*, or *ſuccidaneæ, quaſi præcedaneæ & ſuccedaneæ*. Thoſe ſacrifices which were offered vp the day before any ſolemne ſacrifice, were called *Præcidaneæ hoſtiæ*, fore ſacrifices, as wee engliſh *præcurſorem*, a forerunner: which fore-ſacrifices if by any token they found vnlucky, then would they offer vp a ſecond ſacrifice which they tearmed *hoſtiam ſuccidaneam*: And becauſe theſe ſecond ſacrifices were to be offered only inſteed of the other, when they were vnluckie or faulty; hence hath *Plautus* vſed this ſpeech *Meum tergum ſtultitiæ tuæ ſubdes ſuccidaneum?* Muſt I be whipped for thy fault? The manner of ſacrificing was as followeth. Some certaine daies before any ſacrifice was to be

be performed, the priest was wont to wash his whole body, [f] especially his hands and feet, which if he had not washed, the sacrifice was accounted polluted: and alluding vnto this custome we say a man doth *Accedere ad rem illotis manibus*, or *illotis pedibus*, as often as he enterprised any businesse without due reuerence or preparation therevnto.

Μηδὲ πυῖ' ἐξ ἠοῦς διὸ λείβειν ἄθοπα οἶνον
Χερσὶν ἀνιπτοισιν. *Hesiod* ἔργ. καὶ ἡμερ.

Moreouer the priests was to abstaine from his marriage bed, as likewise from diuers kinds of meats, and at the time of his going to sacrifices, either himselfe, or some inferior Sexton going before him, with a rod or wand in his hand (called *commentaclum*) [g] vsed this forme of words vnto the people: *Hoc age*, attend this you are about: which custome seemeth to haue had its originall from the *Grecians*. For before the time of sacrifice, the Grecian Priest vsed almost the like speech vnto his people. As τίς τῇ δὲ, *id est* who is here? the people answered πολλοὶ, κἀγαθοὶ, *id est*, many men. and good. After this preparation, then did the Priest laying his hand vpon the altar, rehearse certaine praiers [h] vnto the God *Ianus* and the Goddesse *Vesta*: because the *Romans* were perswaded, that without their intercession they might not haue accesse vnto the other Gods. His prayers being ended then did hee lay [i] vpon the beasts head a little corne together with a cake made of meale and salt, called in Latine *Mola*, [k] *Mela erat far tostum, sale aspersum*. From this ceremony the act of sacrificing hath beene tearmed *Immolatio*. After this the soothsayer dranke wine out of an earthen or woodden chalice called in Latine *Simpulum* or *simpunium*: It was in fashion much like our eywers, whence we powre water into the bason. This calice afterward was caried about to all the people that they also might *libare, id est*, lightly tast thereof [l] which rite hath beene called *Libatio*. Now euery one hauing tasted thereof, the rest of the wine with frankincence mixt in it was to be powred vpon the beasts head, [m] betweene the hornes

[f] Vid. Erasm. Adag.

[g] Plutarch. numa.

[h] Seru. Ænei. lib. 1.

[i] Pancirol. li. rerum deperdit. c. de sale Ammoniaco.

[k] Textor in sua officina. *Spargesalsa colla taurorum molâ*. Sen. Oedip. Act. 2. sc. 2.

[l] Pancirol. lib. rerum deperdid cap. de Ammoniaco sale.

[m] *Media inter cornua fundit*. Virg. Æneid

one crying out with a lowd voice, *Malta eſt hoſtia, id eſt, Magis aucta*, more encreaſed and made more pleaſing vnto the Gods; as *Vergill* ſaith *Malte nouâ virtute puer, id eſt*, O good child which encreaſeſt in vertue. And hence euen from this tearme, wee may coniect, that the word *Mallo*, which ſignifieth to kill, and ſometimes to ſacrifice, hath had its originall, becauſe they did immediatly after that voice, *mactare hoſtiam*, that is, ſlay the ſacrifice, and that was done in this manner. First the Prieſt did pluck off ſome of the beaſts haires betweene the hornes, and caſt them into the fire, calling them his *prima libamina, id eſt*, his firſt offrings: Then did he turning his face towards the Eaſt, draw a long crooked knife vpon the beaſts back, commanding his vader officers, which I called *Popæ* (others *Cultrarij*, from their knife, *Victimarij*, from the hoaſt; and *Agones*, becauſe they ſtanding ready to giue the ſtroke, often vſed this word *Agon'?* for *Agone, id eſt*, muſt I to my work?) to kill the beaſt. The other people ſtanding by, ſome did with veſſels ſaue the bloud, others did flea or skinne the beaſt; others waſhed it. Anon ſome ſoothſayer or Prieſt did obſerue the intrals, turning and winding thē with a knife which was called *Seceſpita, à ſecando*: for he might not touch thē with his hand, they conceyting that if the ſacrifice had proued polluted, his hand would then haue periſhed. Now after the ſoothſayer or Prieſt had ſufficiently turned the intrals, & found no ill token therein, thē did thoſe *Popæ*, or Church-butchers, cut off from euery bowell ſome portion, which after they had rolled in barly meale, they ſent it in baskets to the Prieſts, and the Prieſt taking it vp into a broad charger or platter called *diſcus*, or *lanx*, laid it vpon the Alear and burnt it, and this was properly termed *litare*, or *Reddere, id eſt*, to ſatisfie by ſacrifice, or to pay the ſacrifice, which was owen vnto the Gods. After that the portion laid out for the Gods, had beene burnt, then did all the people repaire vnto a common feaſt; where, as they were eating, they ſung hymnes, and ſongs in the praiſe of their Gods, and playing

n Roſin antiq. Lib. 3. c. 33.

o Ioac. Camerar. pro Flacc.

ing on Cymballs, they danced about the altars; intimating thereby, that there was no part of their body, but should be imployed in the seruice of their Gods. Now vntill all their ceremonies and mysteries were finished, it was not lawfull for any to tast of this feast, in somuch that we since haue vsed to checke a glutton or greedy-gut, which cannot abstaine from his meate till grace be said, in this manner, *Sacra haud immolata devorat.*

Cap. 20.

De nuptijs, & nuptiarum renunciatione.

SEeing that marriages and burialls haue such dependence ypon the Priests, it will not bee amisse to conclude this section with two chapters, briefly opening the ceremonies of both. Before wee come vnto the solemne ceremonies, vsed by the Romanes in their mariages, we will first shew the manner of their contracts, which were called by the *Romanes*,[a] *Sponsalia à spondendo*, because in their contracts, each did promise other to liue as man and wife. Now the manner of contracting was commonly thus: They did for the greater security, write downe the forme of the contract vpon tables of record, as appeareth by *Iuvenal. Sat. 6.*

Si tibi legitimis pactam, iunctamq́; tabellis
Non es amaturus——

These tables were also sealed with the signets of certain witnesses there present, who were tearmed from their act of sealing, *Signatores*. Moreouer before they would begin the ceremonies of their contract, the man procured a soothsayer, & the woman another, with whom first they would consult. Whence *Iuvenall Sat. 10.*

——*Veniet cum signatoribus auspex.*

The token or signe which these soothsayers in time of obseruing accounted most fortunate, was a crow:[b] *Ea enim carui-*

cum

a Salmuth. in panciroll. lib. rerum deperdit, c. de nuptijs.

b Alex. Gen. lib. 2.

cum ſocietas eſt, vt ex duabus ſocijs altera extincta, vidua altera perpetuò maneat. The man alſo gaue in token of good will aring vnto the woman, which ſhee was to weare vpon the next finger vnto the little of the left hand, [c] becauſe vnto that finger alone proceedeth a certaine artery from the heart. The word *Nuptiæ*, which ſignifieth marriage had its deriuation [d] *Nubo*, which verbe in olde time ſignified to couer: the cuſtome being that the woman ſhould be brought vnto her husband, with a [e] yellow vayle (called *Flammeum*) caſt ouer her face. Againe, [b] becauſe of the good ſucceſſe that *Romulus*, and his followers, had in the violent taking away of the *Sabine* women [f] they continued a cuſtome, that the man ſhould come and take away his wife by a ſeeming violence, from the lap or boſome of her mother, or her next kinne. Shee being thus taken a way, her husband did diſſeuer & diuide the haire of her head with the top of a ſpeare, wherewith ſome Fencer formerly had beene killed. This ſpeare was called by them *Haſta cælibaris*, [g] & the ceremonie did betoken, that nothing ſhould diſioyne them, but ſuch a ſpeare, or ſuch like violence. The next day after the marriage, a ſolemne feaſt was held, where all the bride-men and bride-womens friends met to make merry, this feaſt they called *Repotia*. We muſt note, that [h] three manner of waies, a woman became a mans lawfull wife: *vſu, confarreatione, coemptione.* A woman became a mans lawfull wife *Vſu.1.* By preſcription or long poſſeſſion, if that ſhee were wedded with the conſent of her ouerſeers, and ſo did liue with the man, as with her lawfull husband a whole years ſpace, *nullo interrupto vſu, id eſt*, [i] ſhee being not abſent from him three nights in the whole yeare. And ſome haue thought that the counterfeited violence, in taking a way the maide from her friends, was vſed only in this kinde of marriage. A woman became a mans wife *confarreatione, id eſt*, by certaine ſolemnities vſed before a Pontifie or chiefe-biſhop, when the woman was giuen vnto the man, vſing a ſet forme of words, ten witneſſes being preſent, & a ſolemne ſacrifice

[c] Aul. Gel.

[d] Roſin. antiq. lib. 5. c. 37.

[e] Plin. lib. 21. cap. 8.

[f] Sig. de iur. Rom. l. 1. c. 9.

[g] Salmuth. in Pancirol. l. rerum deper. ditarum. cap. de nuptijs.

[h] Boeth. Topicor. 2 Vid. Cel. Rhodig. lib. 28. cap. 17.

[i] Sig. de iure Rhom. l. 1. c. 9.

ſacrifice being offred, at which the couple married ſhould eat of the ſame barly cake, which formerly had beene vſed in the ſacrifice. Which ſacrifice was tearmed *à farre, confarreatio*, & the marriage it ſelfe *Farreum*, [k] & ſometimes *ſacra* ſimply; the diſſolution of this kind of marriage *Diffarreatio*. A woman became a mans wife *coemptione, id eſt*, by buying and ſelling, when the woman didvnder a feined forme of ſale, buy her husband, by giuing him a peece of coine. [l] *Veteri Romanorum lege, nubentes mulieres tres ad virum aſſes ferre ſolebant: atq; vnum quidem quem in manu tenebant, tanquam emendi cauſa marito dare.* [m] To theſe three ſome teach, that a fourth ſort of marriage was in vſe among the *Romans*; namely, when a woman became a mans wife *ſortitione*, by a kinde of lottery: & of this they ſay *Sueton:* ſpeaketh. [n] In that kind of marriage, which was *per coemptionem*, the man was not named by his proper name, nor the woman by hers, but the man was named *Caius*, and the woman *Caia*, in the memory of the chaſt and happy marriage of *Caia Cæcilia*, wife to *Tarquinius Priſcus*: from whence ſprang a cuſtome among them that the new married wife, when ſhe was brought home vnto her husbands houſe, was to vſe this proverbe. *Vbi tu Caius, ibi ego Caia*; by which words ſhe ſignified, that ſhee was now owner of her husbands goods, as well as himſelfe: and therefore *Eraſmus* hath expounded that ſaying, by theſe words; *Vt tu dominus, ita ego domina*, [o] And ſhee that was thus married *Per coemptionem*, was properly called *Materfamilias*. [p] If any of theſe ceremonies were omitted, then was the marriage tearmed, *Nuptiæ innuptæ*, in which ſenſe we call our enimies gifts, no gifts; Ἐχθρῶν δῶρα δῶρα οὐ δῶρα. Theſe ceremonies being ended, towards night the woman was brought home to her husbands houſe, with fiue torches, ſignifying thereby, the need which married perſons haue of fiue Gods, or Goddeſſes, *id eſt*, *Iupiter*, *Iuno*, *Venus*, *Suadela*, & *Diana*, who oftentimes is called, *Lucina* (the reaſon of the name being rendred by *Ovid.*

[k] Cic. orat. pro Muræna.

[l] Sig. de iure Rom. l. 1. c. 9.

[m] Sueton. in Tiber. c. 35.

[n] Cic. orat. pro Murena. Item Fr. Si. lib.

[o] Cel. Rhodig. l. 28. cap. 17.

[p] Hieron. Ferarius in Philippic. orat.

...Dedit hæc tibi nomina lucus,
Aut quia principium tu Dea Lucis habes.

There are of opinion, who thinke that the vſe of theſe torches, was not only to giue light, but to repreſent the element of fire: for no marriages were thought happy, which were not contracted *Sacramento ignis & aquæ*: for which reaſon the cuſtome likewiſe was, to beſprinkle the new married woman with *water yea they did both in time of their contract touch water and fire provided for that purpoſe. The ſignification of this ceremonie, ſome thinke to be thus. The fire becauſe it is an actiue element, to repreſent the man: the water becauſe it is paſſiue, to repreſent the woman. Others ſay that in the community of theſe two elements, was intimated the communitie betweene man and wife, of all other their goods and poſſeſſions, which was more fully declared in that forequoted proverb, vſed by the wife. *Vbi tu Caius, ibi ego Caia.* The matter whereof theſe torches were made, was a certaine tree, from which a pitchie liquour did iſſue: it was called *Teda*, and thence haue the Poets figuratiuely, called both the torches and the wedding it ſelfe *Tedas.* When the woman had thus beene brought to the dore, then did ſhe anoint the poſts of the dore with oyle, from which ceremony the wife was called *vxor, quaſi vnxor.* This ceremonie of annointing being ended, the brideman did lift her over the threſhold, and ſo carried her in by a ſeeming force, becauſe in modeſtie ſhee would not ſeeme to goe without violence into that place, where ſhe ſhould looſe her maidenhead. At her carrying in all the company did cry out with a lowd voice, *Talaſſio, Talaſſio*: for which cuſtome *Plutarch* alleageth many reaſons; this being one. Among thoſe who rauiſhed the daughters of the *Sabines*, there were found ſome of the meaner and poorer ſort carrying away one of the faireſt women: which being knowne, certaine of the Citizens would haue taken her from them, but they began to cry out, that they carried her to *Talaſſius*, a man well beloued

*Pancirol. lib. rerum deperd. cap. de nuptijs

q Serv. Æn. l. 4

r Plutarch. vit. Pompeij.

ved among the *Romans*, at which naming of *Talassius*, they suffered her to be carried away, themselues accompanying her, and often crying *Talassio, Talassio*. From whence it hath beene continued a custome among the *Romans* euer at their marriages to sing *Talassio, Talassio*: as the Greekes did *Hymen, Hymenae*. From this custome of leading or bringing home of the new married bride, commeth that Comicall phrase *Ducere vxorem*, to marry a wife. Shee being thus brought home, receaued the keyes of her husbands house, whereby was intimated that the custody of all things in the house was then committed vnto her. [f] The marriage bed was called *Genialis lectus*, as we may suppose, *quasi Genitalis*. [t] Sometimes it was called *Lectus adversus, quod hunc lectulum religiose servari mos fuit, & in atrio collocari, ianua ex adversum, id est*, they placed this bed in their court, directly opposite to their gate, keeping it as some religious monument or pledge of matrimonie. The next day after the marriage, the bride-woman receaued gifts of her friends, which the lawyers tearmed *Nuptialia dona*. [u] But *Cicero* expoundeth these *Dona nuptialia*, to be certaine tokens, which the husband sent to his wife before the betroathing. If after the marriage any discontent had fallen out betweene the man & his wife, [x] then did they both repaire vnto a certaine Chappell, built in the honour of a certaine Goddesse, called *Dea viriplaca, à viris placandis*, whence after they had beene a while there, they returned friends. Wee haue thus seene the rites & ceremonies which the *Romans* vsed in their cõtracts & marriages; it would not be impertinent to annex the maner of their divorcements, which vpon iust causes were permitted. There [x] were two manner of divorcements, the one betweene parties only contracted; the second between parties married. The first was properly called *Repudium*, in which the partie suing for divorcement, vsed this forme of words, *Conditione tua non vtar*. The second was called *Divortium*, wherein the party suing for it, vsed these words. *Res*

[f] Alex. Genedier. l. 2. c. 5.
[t] Lipsi. Elect. lib. 1, cap. 17.
[u] Vid. Fr. Silv. pro Cluentio.
[x] Sig. de iure Rom. l. 1. c. 9.
[x] Rosin. antiq. lib. 5. c. 38.

tuas tibi habeto: vel res tuas tibi agito. Both theſe kinds were tearmed *Matrimonij renuntiationes*, a renouncing or refuſall of marriage. Where we muſt note, that inſteed of this verbe *renunciare*, diverſe good authors doe vſe this phraſe *mittere* or *Remittere nuncium*: as *C. Cæſar Pompeiæ nuncium remiſit,* ‖Epiſtol. 5. *C. Cæſar* hath divorced *Pompeia*. And alluding herevnto, ‖*Cicero* ſaith *virtuti nunciũ remiſit, id eſt.* He hath caſt of al good neſſe, he hath even divorced vertue. Secondly we muſt note, that this verb *Renuncio*, doth not only ſignifie to renounce, or to refuſe, but many times in *Tully*, it ſignifieth to declare, or pronounce a magiſtrate elected, as *Renunciare conſulem, Prætorem, &c.* The reaſon why in matrimoniall contracts, it ſignified to renounce, or refuſe, was becauſe in theſe divorces, they did oftentimes ſend to their wife *per nuncium*, by a meſſenger ſome bill or ſcroll of paper, containing the cauſes of the divorce. Moreouer we are to obſerue, that in theſe divorces, the ceremonies were quite contrary to thoſe in mariages; the iuſt cauſes of divorce being fore-ſignified to the cenſors, the marriage tables were broken, the dowry reſtored, the keyes of the houſe taken from the woman, and ſhee turned out of dores: all which ceremonies are at large treated of by *Thom. Dempſter. lib. 5. Antiq. Rom. cap. 38.*

Cap. 21.

Quo apparatu, quibuſq; ceremonijs apud veteres defuncta corpora igni tradebantur.

THe *Romanes* in ancient time when they perceaued a body dying, had ſuch a cuſtome, that the next of the kinne ſhould receaue the laſt gaſpe of breath from the ſicke body into his mouth, as it were by the way of kiſſing him: (to ſhew thereby how loath and vnwilling they were to be depriued of their friends) and likewiſe ſhould cloſe the eies of the party being deceaſed. Whence *Anna* ſaid vnto her

her sister *Dido* now dying

---ſ *Extremus si quis super halitus errat* ſVirg. Æn. 4.
Ore legam---

And *Penelope* wishing that her sonne *Telemachus* might out liue her selfe and his father, writeth to her husband in this manner. *Ille meos oculos comprimat, ille tuos.*

After the body had thus deceased, they kept it seauen daies vnburied, washing the corps euery day with hot water, and sometimes annointing it with oyle, hoping that if the body were only in a slumber and not qnite dead, it might by these hot causes be reviued.

Per calidos latices & ahena vndantia flammis
Expediunt, corpusq; lavant frigentis & vngunt.

In these seuen daies space, all the dead mans friends met together now and then, making a great outcry or shout with their voices, hoping that if the dead body had beene onely in a swone or sleepe, he might thereby be awaked. This action was tearmed *conclamatio*, whence when wee haue done the best we can in a matter, and cannot effect it, we say proverbially *conclamatum est*: for this third conclamation or generall outcrie (which was alway vpon the seauenth day after the decease) was even the last refuge, at which if the body did not reviue, then was it carried to buriall being invested with such a gowne as the parties place or office formerly had required. Those who had the dressing, chesting, or embaulming of the dead corps were called *Pollinctores:* After they had thus embaulmed the corps, they placed it in a bed fast by the gate of the dead mans house, with his face & heels outward toward the street, according to that of *Pers.*

---Tandemq; beatulus alto
Compositus lecto, crassisq; lutatus amonis
In portam rigidos calces extendit.---

herewith accordeth *Homer* speaking of *Patroclus* his funeall.

Ὅς μοι ἐνὶ κλισίῃ δεδαιγμένος ὀξεῖ χαλκῷ,

Κεῖ ταὶ ἀνὰ πρόθυρον τετραμμένος.--- *id est,*
Qui mihi in tabernaculo confossus acuto ære,
Iacet ad vestibulum conversus.

This ceremony was properly called *corporis collocatio*: and fast by this bed neere the gate also was erected an altar called in Latine [t] *Acerra*, vpon which his friends did every day offer incense vntill the buriall. The gate in the outside was garnished with cypresse branches, if the dead man were of any wealth or note: For the poorer sort, by reason of the scarcitie of the tree, could vse no such testimonie of their mourning. [u] *Et non plebeios luctus testata cupressus.*

t Alex. Gen. dier. l. 3. c. 7.

u Lucanus.

In these seauen daies space certaine men were appointed to provide all things in readines for the funerall: Which things were commonly sold in the [x] Temple of *Libitina*, frō whence those providers were tearmed *Libitinarij*; though sometimes this word *Libitinarius*, doth signifie as much as *capularis* an old decrepit man, ready for the graue. Vpon the eighth day a certaine cryer in manner of a bell-man, went about the towne to call the people to the solemnization of the funeral, in this forme of words: [y] *Exequias L. Titio, L. Filio quibus est commodum ire. Iam tempus est. Ollus ex ædibus effertur.* After the people had assembled themselues together, the bed being couered with purple or other rich couerings, the last conclamation being ended, a trumpeter went before all the company, certaine poore women called *præficæ* following after, and singing songs in the praise of the party deceased. Where we must note that none but the better sort had a trūpet sounded before them; others had only a pipe. [z] *Senatoribus & patricijs tuba; minoribus & plebeiis tibia canebant siticines*; this word *Siticines* signifying either a trumpeter or piper, because they did both *ad sitos, id est, mortuos canere.* Againe, except it were one of the Senatours or chiefe citizens, he was not carried out vpon a bed, but in a coffin vpon a beere. Those that carried this bed were the next of the kin, so that it fell often among the Senators themselues to bear the corps,

x Alex. Gen. dier. l. 5. c. 26.

y Rosin. ant. lib. 5.

z Alex. Gen. dier. lib. 3.

corps, and becauſe the poorer ſort were not able to vndergoe the charges of ſuch ſolemnities, therevpon were they buried commonly in the dusk of the euening; and hence *à veſpertino tempore*, thoſe that carried the corps were tearmed *veſpæ*, or *veſpillones*. In the buriall of a Senator or chiefe officer certaine waxen images of all his predeceſſours were carried before him vpon long poles or ſpeares, together with all the enſignes of honour which hee deſerued in his life time. Moreouer if any ſeruants had been manumized by him, they accompanied the mourners lamẽting for their maſters death. After the corps following the dead mans children, the next of the kin, & other of his frieuds *atrati*, *id eſt*, in mourning apparell. From which act of following the corps, namely *à ſequendo*, theſe funerall rites haue beene tearmed *Exequiæ*, as *Donat* hath obſerued vpon that of *Terrence*. *Funus interim procedit, nos ſequimur*. Which rites becauſe they were performed as debts due vnto the partie deceaſed, hence were they alſo called *Iuſta*. *Eò dicuntur Iuſta, quòd iure mortuis facta ri debent à vivis, Polyd. de invent. lib. 6. cap. 9.* The corps being thus brought vnto their great Oratory called the *Roſtra*, the next of the kinne [a] *laudabat defunctum pro roſtris, id eſt*, made a funerall oration in the commendation principally of the partie deceaſed, but touching the worthy acts alſo of thoſe his predeceſſours, whoſe images were there preſent. The oration being ended, the corps was in old time carried home againe in manner as it was brought forth,

[a] Suet. C. Iulius Cæſar. c. 6.

Sedibus hunc refer ante ſuis & conde ſepulchro.

But afterward by the law of the twelue tables it was prouided, that no man beſides the Emperour and Veſtall Nunnes ſhould be buried within the citie; though ſome vpon eſpeciall fauour haue obtained it. The manner of their buriall was not by interring the corps, as in former times it had beene, but burning them in a fire [b] the reaſon thereof being to preuent the cruelty of their enimies, who in a mercileſſe reuenge would at their conqueſts digge vp the buried bodies, making

[b] Salmuth. in Pancir. lib. rerum deperd. de exequijs.

king even the dead alſo ſubiects of their implacable wrath.) This fire before the burning was properly called *Pyra*; in the time that it burned it was called *Rogus*, [c] *quòd tunc temporis Rogari ſolerent manes*; after the burning then was it called *Buſtum quaſi benè vſtum.* This *pyra* was alwaies built in form of a tabernacle, as it is [*] aboue more at large to be ſeen: whither after the dead mā had bin brought, his friends were wont to cut off one of his fingers, which they would afterward bury, with a ſecond ſolemnity. The charges at funerals growing by this means to be doubled, the law of the 12 tables prouided in theſe words *Homini mortuo oſſa ne legito, &c.* that no mans finger ſhould be cut off, except he died either in the warre, or in a ſtrange country. Where wee muſt obſerue, that *lego* in this place doth ſignifie as much as *adimo* or *auſero*, in which ſenſe we call him *ſacrilegum, qui legit, id eſt, qui adimit & auſert ſacra.* After the dead body had beene laid vpon the *pyra*, then were his eies opened againe to ſhew him heauen if it were poſſible: [d] and withall an halfe-penny was put in his mouth, they ſuperſtitiouſly conceiting, that that halfepenny was *naulum Charontis*, the pay of *Charon*, the ſuppoſed ferryman of hell, who was to carry mens ſouls in a boat ouer the *Stygian* lake after their deceaſe. About this *Pyra* were firſt many boughs of Cypreſſe tree to hinder the evill cent of the corps to be burned. The dead body being thus laid vpon the *Pyra*, the next of the kinne turning his face averſe from the *Pyra*, did kindle the fire with a torch: after this commonly certaine fencers hired for this purpoſe did combate each with other till one of them was killed; they were tearmed *buſtuarij* from *buſtum.* The blood of thoſe that were ſlaine, ſerued inſteed of a ſacrifice to the infernall Gods, which kinde of ſacrifice they tearmed *Inferiæ*, [e] *Inferiæ ſunt ſacra mortuorum, quæ inferis ſolvuntur.* Anon after the body had beene burned, his neareſt friends did gather vp the aſhes and bones, which being waſhed with milke & wine were put into certaine pitchers called *vrnæ*: whence this word

[*] Sup. pag. 30.

[c] Serv. Æn. 5.

[d] Alex. Gen. dier. lib. 3.

[e] Servius.

word *vrna* is often vſed by Poets to ſignifie a graue or ſepulchre, as.

----Vnâ requieſcit in vrnâ. Ouid. Met. lib. 4.

f Though properly *ſepulchrum* was in old time a vault or arch-roofe, round about the walls whereof were placed certaine coffines called *loculi*, within which thoſe former *vrnæ* were laid vp and kept, namely two or three in each coffine. Now theſe funeralls ſometimes were commonly rowards night, inſomuch that they vſed torches; theſe torches they properly called g *funalia à funibus cero circundatis, vnde & funus dicitur.* h Others are of opinion that *funus* is ſo ſaid from the greeke word φόνος ſignifying death or ſlaughter. The bones of the burned body being thus gathered vp, then did the Prieſt beſprinkle the company with cleane water thriſe, and the eldeſt of the mourning women called *præfica*, with a lowd voice pronounced this word, *Ilicet*, thereby diſmiſſing the company, (the word ſignifying as much as *Ire licet*;) Then preſently did the company depart taking their farewell of the dead body in this forme of words: *Vale, vale, vale nos te ordine quo natura permiſerit ſequemur.* If any of theſe ceremonies had beene omitted i then was it tearmed *ſepultura in ſepulta*, in the ſame ſenſe as *nuptiæ* formerly were tearmed *innuptæ*. The old and aged men were inuited after the buriall to a feaſt, or funerall banquet called *ſilicernium* k *quaſi ſilicæ-nium, id eſt, cœna ſupra ſilicem poſita*, their cuſtome being to eate that feaſt vpon an altar of ſtone, and becauſe this feaſt was only eaten at funerals, and by the elder ſort, l hence figuratiuely this word *ſilicernium* doeth ſometimes ſignifie an old creeple ready for the graue. The poorer people inſteed of a feaſt, receiued a dole or diſtribution of raw fleſh: this dole was tearmed *Viſceratio*. Moreouer there was a potation or drinking of wine after the buriall called *Murrata* or *Murrhina potio*, which afterward the law of the 12. tables for the auoiding of expenſes did prohibit: as likewiſe for the moderating of griefe in the mourners it did prohibit the vſe

f Roſin. ant. l. 5.

g Seruius in Æneid. lib 1.

b Hub. in Cic. ep. fam. lib. 4.

i Hier. Ferrarius in Cic. orat. Philip.

k Seruius in Æned. lib. 5.

l Antefig. in Ter. Adelph. Act. 4.

of this word *Lessum*, [*Neve lessum funeris ergò habento*] for that word was often ingeminated in their mourning as a doleful ululation, or note of inward sorrow. This sorrowing or mourning was in some cases vtterly prohibited, in others limited; [m]Namely an infant dying before he was three yeares old, should not be mourned for at all; because he had scarcely yet entred into his life. Elder persons were to be mourned for so many days, as they were years old. Wiues were permitted to mourne for their husbands (Alexander addeth also children for their fathers) ten months, if they would: within which time, the widdow could not marry another husband without infamy and discredit. *Polid de inuent. lib. 6. cap. 9.* Here wee may with *Reuardus* obserue a distinction betweene *Iugere* and *Elugere*. *Lugere* signifieth no more then to mourne some part of the time prescribed; *Elugere* to mourne the whole and full time.

[m] Alex. Gen. dier. li. 3. c. 7.

LIB

LIB. 2. SECT. 3.

Of the Romane games.

CAP. 1.

De ludis Megalenſibus.

THe plaies vſually exhibited by the *Romans*, may de diuided into three ſorts ſome were *Ludi ſacri*, others *Honorarij*, others *Ludicri*. Thoſe were tearmed *Sacri*. which were inſtituted immediatly to the honor of the Gods: ſuch were theſe that follow in their ſeuerall chapters. *Megalenſes ludi*, they were called ſimplie *Megaleſia*, from the Greek word μέγας, finifying *Magnus*, becauſe they were performed in honour of *Cybele*, called *Magna-mater*, of which I haue ſpoken formerly, and there alſo diſcouered the manner of this feaſt. Only here take notice of that which is not mentioned there, namely that theſe games beganne, *a pridie Nonas Aprilis, id eſt*, on the fourth of *Aprill*, and continued ſixe daies after: it appeareth by diuers authors, but more eſpecially by, *Ouid*, who could not eaſily be corrupted, *Ouid, Faſt. lib. 4.* He hauing ſpoken of the riſing of the *Pleiades*, which is on the ſecond of *Aprill*, addeth

Ter sine perpetuò cœlum versetur in axe,
Ter iungat Titan, terq; resoluat equos,
Protinus inflexo Berecynthia tibia cornu
Flabit, & Idæa festa parentis erunt.

[a] Liv. lib. 29. This I note, that the errour crept into [a] *Liuy* may be obserued who treating of the matter in hand saith. *In eadem victoria, quæ est in Palatio, pertulere Deam pridie Idus Aprilis, isq; dies festus fuit: populus frequens dona Deæ in Palatium tulit; Lectisternium, & Ludi fuere, Megalesia appellata.* That is, that these plaies were celebrated vpon the twelfth of *Aprill*. But in the iudgment of many expositors, we are to read *Pridie Nonas*, for *pridie Idus*. Moreouer seruants might not be spectators here, & because the *Prætors* did frequent these sports in their purple and best robes, [b] hence grew that prouerb, *Purpura Megalensis*. To the younger sort at this time, liberty was graunted, to counterfeit all mens gestures and speeches, without distinction of degree or age. [c] They were sometime tearmed *Ludi scenici*, though properly *Ludi scenici*, signified stage playes, and were performed in the honour of *Bacchus*.

[b] Ant. Const. in Ouid. Fast. lib. 4.

[c] Iul. Scalig. poet. l. 1. c. 29.

Cap. 2.

Ludi Cereales.

THat these games were performed in the honour of *Ceres*, is by none doubted. In them was represented by the *Roman* matrons, *Ceres* her lamentation for her daughter *Proserpina*, taken away by *Pluto*; the *Roman* men beheld these plaies in white gownes: the women performed the sacred and holy rites in a white garment also. Among whom it was obserued, that then they thought their seruice gratefull to the Gods, when it was performed by those that were ioyfull, and free from all funerall pollutions. At this time there was a solemne going in procession & carrying about their Gods in the cirque, this solemnity was pro-

properly called *Pompa*:

Circus erat pompâ celeber, numeroq́, Decrum,
Primaq́, ventosis palma petitur equis.
His Cereris ludi, &c. Ovid. Fast. lib. 4.

The manner of this solemne shew, which as I noted was properly called *Pompa*, is described[d] thus by its particulars. That there was, *Simulachrorum series, imaginum agmen, currus thensæ, armamaxæ, sedes coronæ, exuviæ, id est. First* in this solemne possession, were carried about the Images of the Gods. *Secondly*, the Images of well deseruing men. *Thirdly*, charriots led vp anp downe for greater state, and magnificence; vnto this *Virgill* alludeth

----Hic illius arma
Hic currus fuit----

Fourthly, Pageants, so I interpret *thensæ*, which were so called, *quasi tensæ, à tendendo*, as [e] *Asconius* noteth, because they were carried vp and downe, by the help of certaine ropes, which to touch they counted a point of religion. *Fiftly*, horse-litters, for that these *armamaxa*, were not chariots, or wagons, appeareth by him [f] *Qui ex curru in armamaxam deponebatur*. They seeme to haue beene of a compounded forme, in part like chariots, called ἅρματα, in part like waynes, called ἅμαξαι, and thence ἁρμάμαξα hath its appellation: ἁρμάμαξα, inquit, *Phavorinus*, ἡ πρὸς ἀνδρῶν καθέδραν κατεσκευασμένη ἅμαξα, οἷον ἅρμα καὶ ἅμαξα, ἢ ἀνδράμαξά τις οὖσα, ἡ ἄγουσα τοὺς ἄνδρας. In which words besides the etymologie expressed, the vse thereof is declared to be for the carriage of men. That as the chariots went empty for greater magnificence, and as in their pageants were carryed, the *Simulachra Deorum*, according to that, [g] *Thensa Deorum vehiculum*: so in these horse slitters were carryed men, or rather that same *agmen imaginum*. which was the second particular: *Sixtly*, chayres of state: *Seaventhly*, crownes: *Lastly*, spoiles taken from their enimies; these three last I take to haue beene vsed chiefely, and principally in the *Roman* supplications, or publique thanksgiuings

d Ter. de spect. cap. 7.

e Vid. Franc. Iun. annot. in Tert. de spect. It. de tensis vi Turneb. 29. 27.

f Herodot. l. 7.

g Alex. ab Alex. lib. 2. c. 30.

giuings, for any great victory, the cuſtome being in ſuch ſhewes, when they came to ſuch and ſuch remarkeable places in the cirque, to pitch a certaine chaire, adorned with crownes of victory, and ſpoiles taken from the enemy, reputing it not the leaſt office, [b] thus to honour their Emperour though abſent with the prerogatiue of ſuch a chaire: now in the preparation to this particular ſhew, we read that an egge was eſpecially [i] prouided. It is obſerued by [i] many out of *Macrobius*, whoſe words are; *Ouum q, in Cerealis Pompa apparatu numerabatur primum.* The obſeruation is generall, but the reaſon thereof, *Inter arcana Cereris*, quite ſuppreſſed, & by none, that euer I could meete with, yet explained; if my coniecture may ſatisfie in a matter ſo obſcure, cōceiue it thus. Theſe pompous ſhewes, were vacious, and in the honour of diuerſe Gods, & accordingly the *Romans* made choice in euery ſuch ſolemnity, of ſome one principall thing in their ſhew, vnto which the glory of the preſēt ſolemnity ſhould in more eſpeciall manner belong: Thus in the *Pompa circenſis*, which was celebrated in the honour of the [k] Sun. great horſes were led vp and downe, for greater ſtate. [l] *Quia equis, & equeſtribus exercitamentis, ſol praeſſe credebatur Superſtitione antiquiſſima.* Hence the cirque place it ſelfe was called τὸ ἱππικὸν, & ἱππόδρομος. After this ſame manner in this *Pompa Cerealis*, (which was alſo ſome times called *Circenſis* from the place where it was exhibited) an egge was chiefely and principally provided, for ſeeing that vnder the name of *Ceres*, this ſolemnity was performed to the *Earth*, how could the *Earth* be more honoured, then by bearing about the hieroglyphicke of the whole world? As if they did intimate thereby, that euen heauen it ſelfe was beholding to the *Earth*.

---*Pecori frondes, alimentaq, mitia fruges*
Humano generi, vobis quoq, thura miniſtro. *Ouid. Met. l. 2.*

And ſuch an hieroglyphicke [m] *Cœlius Rhodiginus* proueth an egge to be, partly from its cicular & globe-like forme; partly from the matter whereof it conſiſteth; the hard ſhel, reſembling

[b] Vid. Isaac. Caſaub. in Sueton. Iul. c. 76.
[i] Hoſp. de orig. feſt. Roſin. lib. 5. cap. 14. Alex. ab Alex. lib. 6. cap. 19.
[k] Solis honore noui grati ſpectacula circi. Antiqui ſanxere patres. Corip. Afric. lib. 1. num. 17. vid. Dempſter. [l] Franc. gun. annot. in Ter. de ſpect. c 8.
[m] Cœl. Rhod. lib. 27. cap. 17.

bling the ſoild earth; the more ſpirituous part there of, the aire: the moiſt and liquid part, the water, the yolke, the element of fire; yea he noteth alſo, that as there is *in mundo*, ſo likewiſe *in ovo, vis vitalis.* a kinde of quickning, and enliuening power in both. Otherwiſe if this opinion giue not content, we may interprec the carrying about of this egge, to be in the honour of *Caſtor* and *Pollux*, for as there were markes or goales in the Cirque, ſome in the forme of *Dolphins*, in the honour of *Neptune*: ſo were there others [n] σημεῖα, markes of a long roundneſſe, in forme of an egge, in memory of [o] *Caſtor* and *Pollux*, which were *ovo edita*; according to that of *Horace.*

Ovo prognatus eodem. Hor. ſerm. 2. ſat. 1.

For the ſame reaſon happyly it was, that an egge was at this time carryed vp and downe, as the chiefe and principall enſigne.

n Dio. lib. 49.
o Tertul. de ſpect. cap. 8.

CAP. 3.

Ludi Florales.

THeſe Games or ſports, were inſtituted in the honour of the Goddeſſe *Flora*, that ſhee being there with appeaſed, the earth might bring forth flowers, & fruits in greater abundance. Of the Goddeſſe it hath beene ſpoken before. The time of the yeare when theſe ſports were obſerved, [p] was vpon the foure laſt daies of *Aprill*, and the firſt of *May*, whence is that of *Ouid. Faſt. 5.*

p Alex. ab Alex. lib. 6. c. 8.

Incipis Aprili, tranſis in tempora Maij:
Alter te fugiens, cum venit alter habet.

The manner thereof, was, that ſhameleſſe ſtrumpets, did then runne vp and downe the ſtreets naked. vſing many laſciuious and obſcene geſtures, and ſpeeches, they were called together by the ſound of a trumpet, vnto which *Iuuenal* alludeth.

.... Digniſſima prorſus
Florali matrona tuba.

More-

Moreouer, whereas in other games, Boares, Lyons, & Bares, were publiquely bayted, to recreate the ſpectators: here only Goates, and Hares, and ſuch milder beaſts were hunted, [q] becauſe the Goddeſſe *Flora*, had not the cuſtody of woods, and forreſts where the wilder beaſts ranged; but of gardens, and medowes. At this time alſo Elephants were brought forth into the publique view of the people, which were taught [r] to walke on ropes, and that there is an aptnes in elephants to goe forward and backward on ropes, [ſ] *Plin.* teſtifieth.

[q] Hoſp. de orig. Feſt.

[r] Suet. in Gal.

[ſ] Plin. l. 8. c. 3.

Cap. 4.

Ludi Martiales

Of theſe ſports there is not much ſpoken: [t] they were obſerued vpon the firſt of auguſt, becauſe on that day the temple of *Mars* was conſecrated. They were firſt inſtituted [u] by *Numa Pompilius*.

[t] Dio. lib. 60.

[u] Ter. de ſpe. cap. 5.

Cap. 5.

Ludi Appollinares.

There was an ancient Poet called *Martius*, [*] out of whoſe writings, as likewiſe out of the *Sibilline* oracles, the *Romans* were admoniſhed to dedicate certaine games vnto *Apollo*. At the firſt celebration of them, [x] it is reported, that a ſuddaine and vnexpected inuaſion of enemies, enforced the *Roman* people to forſake their ſports, and to betake themſelues to weapons: in which time of their diſtraction, a cloud of darts and arrowes was ſeene to fall vpon their enemies, ſo that they preſently returned conquerours vnto their ſports, where [y] at their returne they founde one *C. Pomponius*, an old man dancing to a minſtrell, and being very ioyfull, that their ſports had beene continued with-

[*] Liu. lib. 5. dec. 3.

[x] Macrob. l. 1. Sat. c. 17.

[y] Sext. pomp. Feſt. vid. Hoſ. de orig. feſt.

without interruption they cryed forth, *Salva res est, saltat senex.* Which speech afterward became proverbiall, and is fitly vsed, when a suddaine evill, is seconded with a good event, beyond hope or expectation.

Cap. 6.

De ludis Romanis, qui & Magni, & Consuales, & Circenses dicti.

THese solemnities are sometimes called *Romani ludi*, because of their antiquitie amongst the *Romans*, being first instituted by *Romulus*: sometimes *Magni ludi*, either because of the great charge and expense of mony at that time, or because they were performed in the honour of their great God [a] *Neptune*, called also *Consius*, because hee was reputed the God of secret *counsels*, whence the solemnities themselues are sometimes called *Consualia*: whereas many of the *Roman* temples, for certaine misterious significations, had their peculiar manner of building. [b] *Servius* noteth, that the Temple in the great Cirque, dedicated to *Consus*, was covered, to signifie that counsells must be secreted, and concealed. Likewise for the same reason, [c] his altar was made vnder the earth, not appearing in publique view, saue only in the time of these solemnities exhibited. The chiefe ceremonies vsed at this time, consisted in the adorning of their horses, and asses, with garlands, wherein they thought that *Neptune* was honoured, who was the first autor and inuenter of horse-riding: hence *Neptune* himselfe is called Ἵππιος. This festival was first instituted by *Evander*, in the honour of *Neptune*, vnder the name of Ἵππιος, & [c] thence the feast was called ἱππικὰ. Afterward it was renued by *Romulus*, in the honor of *Neptune* likewise, but vnder the name of *Consus*, because *Romulus* needed a God of counsell to assist him, in that designement of his, for the violent taking away of so many

[a] Tertul. de spect. cap. 5.

[b] Serv. in Virg. Æn. lib. 8.

[c] Alex. ab Alex. lib. 5. c. 26.

[d] Vid. Suid.

[e] Dion. Hal. lib. 1.

many *Sabine* women, as were take away at the first celebration of these games. The reason of *Romulus* his institution of them, being no other, but that vpon the fame of these new sports, many *Sabine* women flocking thither to be spectatours, his proiect might be the sooner effected. These & the cirque-shewes, so often mentioned in ancient authors, at first were all one, as appeareth by that of [f] *Valerius*. *Ad id tempus circenſi ſpectaculo contenta erat civitas noſtra, quod primus Romulus raptis virginibus Sabinis conſualium nomine celebravit.* Touching these cirque shewes, some are of opinion that they were performed in the honour of *Ceres*, this *Iulius Scaliger* [g] disliketh, & he is of opinion, they were celebrated in the honour of *Neptune*: others are of opinió they were instituted in the honour of the *Sun*. Al opinions may be reconciled, if we vnderstand first, those authors who ascribe these cirque shewes to *Ceres*, to speake of the *Cereales ludi*, which we read sometimes to be called *Circenſes*, because they were exhibited in the *Cirque*: Secondly, if we distinguish the *Pompa Circenſis*, from the *Circenſes ludi*, and from the *Cereales ludi*. The *Cereales ludi*, were instituted in the honour of *Ceres*; the *Circenſes ludi*, in the honour of *Neptune*; the *Circenſis Pompa*, in the honour of the *Sun*. And furthermore for the full vnderstanding hereof, we must know, that the horses brought into the Cirque at this time, were of two sorts: some were only *σωμικαὶ*, such as were led vp and downe for shew & state; I vnderstand *Alex. ab Alex.* to speak of these horses, when he saith [h] horses were consecrated to the sunne; nay I vnderstand those horses mẽtioned *2. Kings, 23.* to haue been of the like superstitious invention; where it is said: that *Iosiah* did put down the *horses giuen* to the *sun*, & the *Chariots of the sun*. That practise, I say, hath neere affinity with this of the *Romans*, but I thinke it to haue beene originally derived to the people of *Iudah*, from the *Persians*, who also accounted holy to the sun, [i] & the *Persian* king whẽ he would shew himselfe in great state, caused an exceeding great horse to

f Val. Max. lib. cap. 4.

g Iul. Scal. lib. post. cap. 32.

h Alex. ab Alex. l. 3. c. 12.

i Cœl. Rhod. antiq. lib. 8. c. 2

to be led vp and downe, which was called *Equus ſolis*. Other horſes were for exerciſe and race, we may call them ἀρωγὰς, the inſtitution of theſe I ſuppoſe to haue beene in the honor of *Neptune*. The prizes or maſteries exerciſed in time of this cirque-ſhew were many. Fencing, and that vntill one of the combatants were killed in the place; fighting with beaſts; wreſtling; running of races on foot; iumping and leaping; horſe-racing; ſea-skirmiſhes exhibited in ſome riuer; coach-races; and fighting at whorlebats. Howſoeuer the nature & manner of theſe games, are in ſome meaſure vnderſtood by the very names, yet a more large diſcourſe concerning the two laſt, will be very behouefull, for the the more full vnderſtanding of the *Roman* hiſtory. Theſe coach-racers, when this maner of race was firſt inſtituted, were diuided into two companies, which they tearmed *Factiones albas*, *& ruſſeas*: diſtinguiſhing each faction or company, by the different colour of their [k] coats. Afterward they were diuided into foure companies, diſtinguiſhed alwaies by their colours: whence came that diſtinction; *Factiones Praſina, Veneta, Ruſſata, Albata*; which colours may thus be engliſhed. The firſt ſignifieth a deep green; the next a kind of ruſſet inclining to red; the third a Venice blew, or Turky colour; and the laſt a perfect white. Of theſe [l] *Tertullian* ſpeaketh as followeth: *Aurigis, coloribus idololatriam veſtierunt, & ab initio duo ſoli fuerunt, albus & ruſſeus. Albus hyemi ob nives candidas: ruſſeus aſtati ob ſolis ruborem voti erant: ſed poſtea tam voluptate, quàm ſuperſtitione prouecta; ruſſeum, alij Marti, alij album Zephyris conſecrauerunt: Praſinum verò terra matri, vel verno: Venetum cœlo & mari, vel autumno.* As the Emperour, ſo the people; ſometimes fauoured one faction or company, ſometimes another, & accordingly as they fauoured the cõpany, they would lay wagers on their ſide, which wagers they tearmed by a peculiar name *Sponſiones*, this [m] *Turnebus* interpreteth *Tertullian*, where he ſaith that the people flockt to theſe races, ſometimes for one reaſon, ſometimes for ano-

[k] Henr. Salm. in Pancir. cap de Circo Max

[l] Tertul. de ſpect. cap. 9.

[m] Turneb. adu lib. 8. cap. 4.

ther, but sometimes [n] *sponsionibus concitatus, id est*, stirred vp with a desire of abbetting, or laying wagers. To these foure [o] *Domitian* in his time added two other companies, the one wearing cloath of gold, the other of purple: but these latter remained not long in vse. Their fighting at whorlebats they tearmed *bellare cestu*. The maner of this fight conceaue thus, the combatants had in each hand a strap of leather, with which each stroke at the other (for we must knowe that this kind of fight, succeeded fistie-cuffes, & because in fistie-cuffs the party striking, did by the blow as well hurt his own fist, as he did him that was stroken, herevpon they invented this other kinde of fight with leatherne switches) these leatherne switches they called *Cestus*, from the [p] Greek κεστὸς, signifying a belt or girdle; to make the fight more dangerous, they did in after times tie peeces of ledde, or yron at the end of these leatherne straps, so that they did with the force of the stroke, often dash out one anothers braines, and vnlesse by the waight of the led or yron, the strap might chance to flye out of their hands, they caused each strap to bee tied fast to their armes, and shoulders: neither was this without reason, for those iron or leden poyses could not be but very weighty, being made in the bigneſse, and [q] forme of Rams hornes. Lastly, these cirque shewes, had their appellation *Circenses*, either from the great cirque, or shew-place, called *Circus Maximus*: where the games were exhibited; or from the swords wherewith the plaiers were environed, as one would say *Circa enses*. They much resembled those Grecian games called *certamina Olympica*, where the runners with Chariots, were hemmed in on the one side with the running riuer, and on the other with swords pitched point-wise, that they should hold the race on directly, and not swarue aside without danger. [*] Some haue thought them to be the same with *ludi Gymnici*, so called from γυμνὸς, naked; because that those which did performe these kindes of exercises, did either put off all, or the greatest part of their cloaths, to the intent that they

[n] Tertul. de spect. cap. 16.
[o] Sueton. in Domitian cap. 7.
[p] Iul. Scaliger. lib. poet. c. 22.
[q] Aldus Manut. lib. 2. de quæst. per epistolam epist. 8 vid. Rosin. antiq. l. 5. cap. 5.
[*] Rosin. antiq. l. 5. c. 5.

they might the more readily and nimbly performe their games; for which purpose they did also annoint their bodies with oyle. Whence we say, when a man hath lost his cost & labour. *Operam & oleum perdidit*; *oleum* in this place, signifying cost and charges, so that the proverbe was the same with that of the Coblers crow, *Opera & impensa periit.*

CAP. 7.

Ludi Capitolini, & Agones Capitolini.

THE first institution of these games [r] *Livy* sheweth, where likewise hee intimateth the reason, why they were called *Capitolini*, to haue beene in the honour of *Iupiter Capitolinus*, because he preserued the *Capitoll*, whē it was assaulted by the *Gauls*: wee must distinguish these games from those other shewes called *Agones Capitolini*, instituted by *Domitian*: For those *Ludi* were exhibited yearely, [s] these *Agones* every fift yeare; In those was celebrated the deliverance of the *Capitoll*; In these Rhetoricians, & Poets, and men of other profession contended for the victory, & hence [t] *Rosinus* thinketh the *Poets Laureat* to haue taken their beginning. He is likewise of opinion, that *Iuvenall* alludeth vnto these solemnities,

[r] Liv. Dec. 1. lib. 5.

[s] Sueton. in Domit. cap. 4.

[t] Rosin. antiq. lib. 5. c. 18.

....Sed cum fregit subsellia versu
Esurit, intactam Paridis nisi vendat Agauen. Sat. 7.

Although the allusion may be granted, yet herein I thinke *Rosinus*, though otherwise learned to haue beene mistaken, in interpreting *Fregit subsellia*, by *Non stetit*; *Excidit*, or *Non placuit*; as if the Poet of whom *Iuvenall* speaketh, had beene conquered at this time. In my opinion neither will the purpose of *Iuvenal*, nor that phrase of speech admit that construction. Not the purpose of *Iuvenal*, for the scope & drift of that Satyre, is to shew, that be the Poet neuer so pleasing, or let him giue full satisfaction to the people, yet he shall re-

ceaue no benefit thereby, but a vaine and empty applause, so that he shal be compell'd to sell those very Poems, which are receaued with so generall an approbation, to buy victuals, and prevent hunger. Neither doth that interpretation agree with that phrase, for *Frangere subsellia*, doth rather on the contrary, signifie the vehement acclamation giuen by the people, in approbation of the Poem, it being a poeticall elegancy, to expresse the vehemency and greatnesse of the applause.[v] *Suidonius Apollinaris* vseth the selfe same phrase. *Hunc olim perorantem, & rhetorica sedilia plausibili oratione frangentem, socer eloquens vltro in familiam patritiam asciuit.* Neither is that of *Virgil* vnlike.

Et cantu querelæ rumpunt arbusta cicadæ.

Yea the *Grecians* vsed the same manner of speech, [x] κατεῤῥήγνυτο πᾶς ὁ τόπος, ὑπὸ τοῦ Κρότου, καὶ τῆς κραυγῆς. So that hereby, I think the Poet vnderstandeth, that *Grande sophos*, so often mentioned by *Martial*, it being a vsuall custome amongst the *Romans*, to signify their approbation of their Oratour or Poet. by the lowd acclamation of Σοφῶς, or ὀρθῶς. Vnto which *Horace* alludeth *de arte poet:*

----clamabit enim pulchrè, benè, rectè.

But to returne whence we haue digressed, these later solemnities were of such note, that whereas the *Romans* formerly, made their computations of their greater yeare, called *Annus magnus*, by their *lustra*,[y] now they made it by these *Agones Capitolini*. Againe wee must distinguish these *Agones quinquennales* instituted by *Domitian*; from those *Ludi quinquennales* instituted by [z] *Augustus Cæsar*, in memory of the victory, which he got against *Antonius*, vpon the promontory *Actium*, whence they were called *Actiaci Ludi*.

u Sidon. Ap. l. 5. epist. ad Sapand.

x Polyb. in hist. 15.

y Hospin. de orig. fest.

z Sueton. Aug. cap. 18.

CAP. 8.

Cap. 8.

De ludis ſæcularibus.

AVthors agree not vpon the iuſt period of time, when theſe ſecular names were to bee renued; ſome are of opinion that they were to be celebrated every hundreth yeare; ſome every hundreth and ten, ſome once onely in three hundred: but in this all agree, that they were named *ſæculares*, from *ſæculum* which ſignified at leaſt an hundred yeares, [a] *ſæculum in centum annos extendi exiſtimabant.* Becauſe the full and compleat age of a man, might extend it ſelfe to the hundreth yeare, and ſeldome to many aboue an hundred: thence it was, that the forme of words vſed by the publike crier in proclaiming theſe games was [b] *Venite ad Ludos quos nemo mortalium vidit, neq; viſurus eſt.* Vnto which [c] *Ovid* alludeth *Triſt. l. 2.* *Carmina----*

Iuſſerat & Phœbo duci, quo tempore ludos
Fecit: quos ætas aſpicit vna ſemel.

But the Emperours being ambitious of honour, & deſirous to be ſpectatours of the games in time of their owne reigne, they did often anticipate the time. *Claudius Cæſar* amongſt the reſt, proclaimed them within [d] ſixty three yeares, after *Auguſtus* had obſerued them, which occaſioned the people to deride his crier, inviting the people to thoſe ſhewes and ſports, which no man liuing either had ſeene, or ſhould ſee againe. Becauſe [e] ſome who were ſpectatours, nay actors in thoſe ſolemnities exhibited by *Auguſtus*, liued at the ſame time, when *Claudius* cauſed this to bee proclaimed. Theſe plaies were alſo [f] called *Tarentini ludi*, not from the Citie *Tarentum* in great *Greece*; but from a certaine place of the ſame name neere *Rome*, adioining to the riuer *Tiber*. All the Theatres at this time were filled, & ſacrifices offred through out all the *Temples*, for the ſpace of three daies, and three nights

Herodian. lib. 3. in vita Seueri.

a Roſin. antiq. l. 5. c. 21.

b Pol. Virg. de invent. l. 8. c. 1.

c Ov. Triſt. l. 2.

d Alex. ab Alex. l. 6. c. 19.

e Suet. Claud. cap. 21.

f Hoſpinian. de orig. feſt.

nights, which giueth light to that of *Ausonius*.

Trina Tarentino celebrata trinoctia ludo.

The first day the Emperour, and the *Quindecimviri*, early in the morning ascended the *Capitoll*, and there offered sacrifice according to their wonted manner, thence they departed to the Theatres, to performe solemne plaies in the honour of *Apollo* and *Diana*. The second day the noble Matrons assembled together in the *Capitoll*, they offered vp supplications vnto their Gods, they feasted and sung hymnes, in the honour of the Gods. The third day seuen and twentie boyes, going along three and three, and as many maides in like manner, all of them nobly descended, and hauing both father and mother aliue, sung verses, in which they commended the *Roman* state to the protection of the immortall Gods. This was tearmed *Paeanas concinere*, which word *Paean*, though it signifie primarily an hymne, or song of praise made to *Apollo*, who was called *Paean*, [g] from παίειν, *a feriendo*; because of his victory gotten of the *Python*: yet [h] sometimes, and so in this place, it denoteth the praises in generall of all the Gods. Againe the phrase intimateth an eleuation of the voice in singing, with a kinde of rising from one note to another. Thus *Turnebus* maketh ἀναλύειν, & μυρίζειν to be opposite [i] *Videtur autem paean contentionis vocis esse, minuitio remissionis.*

g Cæl. Rhod. antiq. lib. 7. c. 5
h Seruius in Æn. lib. 6.
i Turneb. adv. lib. 1. cap. 12.

Cap. 9.

De ludis plebeijs, compitalitijs, Augustalibus Palatinis, Taurilibus, & Votiuis.

OTher games there were performed in the honour of the Gods, which are rather named by Authors then explained, they are these that follow 1 *Plebeij ludi*, [k] which were celebrated in memory of the liberty procured to the *Roman* state, by the succession of Consuls in the place

k Alex. ab Alex. lib. 6. c. 19.

of

of Kings: or as others ſay, in memory of the reconciliation, wrought between the Senators & the Cõmonalty, by reaſon of their great oppreſſion at that time, when the Commons in a kinde of mutinie departed to the *Aventine* mount. 2 *Cõpitalitij Ludi*, ſo called becauſe they were vſually ſolemniſed in *Compitis* (*id eſt*) in the croſſe waies, and open ſtreets, [l] they were firſt ordained by *Servius Tullius*, in the honour of thoſe Gods, whom they tearmed *Lares*, in memory of his natiuity. The forme of words vſed by the *Prator*, when he ſignified to the people the time of theſe ſolemnities, was as followeth. [m] *Die noni poſt Calendas Ianuarij Quiritibus compitalia erunt.* Concerning which words, [n] *Gellius* noteth, *Die noni Prator dicit, non die nono, neq; Prator ſolùm, ſed plaraq; omnis vetuſtas ſic locuta eſt.* 3 *Auguſtales ludi*, performed in the honour of *Auguſtus Caſar*. 4 *Palatini ludi*, ſo named, becauſe they were performed in the *Palatine* mount. Some are of opinion that they were inſtituted in the honour of [o] *Iulius Caſar*; others in the honour [p] of *Auguſtus*. 5 *Taurij ludi*, which receaved their name from *Taurus*, a bull: They were firſt ordained by [q] *Tarquinius ſuperbus*, when there happened a great peſtilence amongſt the womẽ with child, occaſioned by much bull-fleſh ſold vnto the people, for the remoueall of which plague, theſe games were inſtituted, in the honour of the infernall Gods. They are ſometimes alſo called *Boalia*, & *Bupetij*. 6 To thoſe may we add their *Votiuos ludos*, which were alſo performed in the honour of ſome God, vpon ſome ſpeciall vow made. For whenſoeuer the *Romans* did vndertake any deſperate warre, then did ſome *Roman* Magiſtrat *Vouere ludos, vel templa*, conditionally that they got the conqueſt; whiles the Magiſtrat vttered this his vow, he was ſaid *Vota nuncupare*, or *facere vota*, (*id eſt*) to make a ſolemne vow vnto the Gods; [r] the vow being thus made, hee which made it did write it in paper, & with wax faſtened it to the knees of their Gods, thereby binding himſelfe the more ſtrongly, to the performance; and this in *Pliny* his phraſe is *ſignare vota:*

[l] Plin. lib. 36. cap. vlt.

[m] Macrob. l. 1. Satur.

[n] A. Gel. noct. At. l. 10. c. 24.

[o] Alex. ab Alex. lib. 6. c. 19.

[p] Dio. lib. 56. cap. vlt.

[q] Feſt. vid. Hoſpin. de orig. feſt.

[r] Turneb. adver. lib. 3. c. 17.

Iuvenal tearmeth it,

Genua incerare deorum. Satyr. 10.

After this he was ſaid to be *Voti reus, id eſt*, conditionally bound & obliged to the performance thereof, ſo that the Gods might challenge the thing vowed as due debt, if they granted his requeſt, yea after that the thing craued had beene obtained, then was he ſaid, *Damnatus voti, vel voto* (*id eſt*) ſimply bound to the performance of the vow, ſo that by cõſequence, *Damnari voti, vel voto*, is to haue ones deſire accõpliſhed. Thus haue wee gone ouer the chiefe and principall games which were meerely *Sacri*, tending to religion; the ſecond ſort were, *Ludi honorary*, of which in the next chapter.

Cap. 10.

De Gladiatura.

SVch ſports and plaies, which were performed by priuate men vpon their owne purſe & charges, they ſeeking thereby to winde themſelues into the affections of the common people, and to make way for their own preferment and honour, were tearmed [a] *Ludi honorarij*; & howſoeuer any game or ſhew might be tendered vnto the people in this reſpect, yet thoſe of this nature, were for the moſt part, either *fencing*, or *ſtage-playes*: *fencing*, becauſe the ſight thereof was ſo often freely beſtowed vpon the people, is therefore many times denoted by the latine word, [b] *Munus*; and thoſe that beſtow theſe ſights, are for the ſame reaſon tearmed *Munerarij*. The firſt originall of this fencing, and ſword playing, to the killing of one another, hath been deriued [c] from a cuſtomary practiſe among the Heathens, at the burials of their friends, who being perſwaded that the ſhedding of mans bloud would be propitiatory for the ſoule deceaſed, hence would they buy captiues and ſlaues, purpoſely to be ſacrificed at burials: afterward this wicked ſpectacle

[a] Iſaac. Caſaubon. in Suet. Aug. 32.

[b] Lipſ. Sat. l. 1. cap. 7.

[c] Tertul. lt. Seruius in Æneid. 10.

cle might be the more pleaſant and delightfull, they changed their ſacrifice into a fencing with art, where the combatants did fight for their life. This particular kind of **Fencers** were called *Buſtuarij* from *buſtum*, the place where dead mens bodies were burned; but ambition and crueltie, made theſe bloudy ſpectacles in after ages more frequent, inſomuch that prizes at laſt were plaied not only at the toombes but in diverſe other places, as the *Circque* and *Amphitheatre*, &c: yea they were giuen as legacies by will and teſtament vnto the people, the prizes haue continued many daies together, and the number of the combatants ſomtimes exceeded number. At the firſt none would thus hazard their liues, but captiues and fugitiue ſeruants, which were enforced therevnto, being bought for that purpoſe, afterward thoſe that were free-borne ſuffered themſelues to be hired, for which cauſe they were tearmed *Auctorati* hirelings; [d] yea noble men themſelues ſometimes by reaſon of their decayed eſtates; ſometimes to demerit the Emperour his loue, endangered their liues in this fight, thoſe that were hired, bound themſelues by a ſolemne oath to fight vnto death, or elſe they would yeeld their bodies to be whipt, yea and to be burnt, vnto which [e] *Horace* alludeth.

[d] Sen. ep. 100.

[e] Serm. 2. 7.

Quid refert, vri, virgis ferrog, necari
Auctoratus eas? an turpi clauſus in arcâ?

The manner of this bloody ſpectacle was thus, the Maſter, or exhibiter thereof, did by a publique bill, giue notice vnto the people, what day the prize ſhould be performed, how many couples were to combat, what their names, &c. thereby to procure the greater expectation & concourſe of people, of this ſpeaketh [f] *Sueton: Munus populo pronunciavit in filiæ memoriam.* [g] Ye they did in tables hanged in publique view, paint and repreſent, not onely the deſcription of the place, but alſo the very forme and geſture of the fencers.

[f] Sueton. in Iulio.

[g] Plin. 35. 7.

---velut ſi
Revera pugnent, feriant, vitentq, moventes

Arma viri. Horat. lib. 2. Sat. 7.

Vpon the day appointed when all met, then were the weapons brought forth, and those, they were of two sorts: *Lusoria*, or *Exercitoria tela*, such as were the speare, & wands, or cudgells, that they might tosse the one, and fence with the other, and shew other feats of actiuity, all being but preparations to that more solemue & dangerous fight ensuing. The Greeks calleth them ἐσφαιρωμένα ἀκόντια, because of the little balls tied at the sharpe end of the weapons, to preuent dangers. Others were [h] *Decretoria tela*, so called, *Quia hæc velut decreto Prætoris, sive Editoris dabantur.* These were those, with which they really encounterd each other for life or death, and therefore sometimes they are called *Pugnatoria*, [i] *Seneca* speaketh of both. *Remoue ista lusoria arma, decretorijs opus est.* And that the Apostle doth not allude to both, I dare not gainesay, *1. Cor. 9. 26. 27.* where hee saith οὕτω πυκτεύω ὡς οὐκ ἀέρα δέρων, ἀλλ' ὑπωπιάζω μου τὸ σῶμα. He did not beat the ayre, and flourish with those lusorious, and preparatory weapons, but he did truely fight against his naturall corruption, to the wounding and subduing of it; for [k] so ὑπώπια signifieth putrified wounds. That phrase of [l] *Senecaes* alluding to the fore-flourishings, is not much vnlike. *Aliud est ventilare, aliud pugnare.* This fore skirmish with cudgells was properly tearmed *præludium*: *Megara* speaking of *Hercules* his conquest over the two Serpents, assaulting him being yet an infant, saith, [m] *Prælusit Hydræ, id est*, that combate was but the prologue, preface, or introduction to that greater, which should ensue betweene him & the *Hydra*. Afterward when they betooke themselues to naked weapons, and to a reall fight, then were they said *Dimicare ad certum*, and *Versis armis pugnare*. This word [n] *Versis* being put for *Transmutatis*. In the act of fighting, they did frame & compose their body according to the rules of their art, for the better warding of themselues, and the readier wounding of their adversary. This frame and positure of the body

h Lipf. Sat. l. 2. cap. 19.

i Senec. epist. 117.

k Suid. in voce ὑπώπια.

l Sen. l. 3. cont.

m Sen. Herc. fur. vers. 221.

n Lipf. Sat. l. 2. cap. 19.

body, was by a peculiar name called *Status*, or *Gradus*. Whence aroſe thoſe elegant Metaphors *Cedere de gradu*, *Demigrare de gradu*: To change ones purpoſe, and as it were to draw back from what he formerly intended. In like manner we ſay, *De mentis ſtatu deijcitur*, or *deturbatur*; He is driven to change his minde, or in generall he is amazed. In the conflict oftentimes, the ſword players after they had receaved any dangerous wounds, laid down the weapons, which though in extremity was a token of cowardiſe, neither were they therevpon acquitted or diſcharged; but this depended vpon the conſent either of the Emperour, or the people, or the Maſter of the ſhew. This diſcharge was properly called *Miſſio*. Such was the crueltie of thoſe times, that many prizes were proclaimed, wherein they ſore-ſignified, that ſuch diſcharges ſhould neither be craued, nor granted: wherevpon [o] *Auguſtus Cæſar* made a decree, wherein *Gladiatores ſine miſſione edi prohibuit*. Thoſe combatants that ouercame, receaued by way of reward, ſometimes mony, ſometimes a garland, or coronet of palme tree, wound about with certain wollen ribbands called *Lemniſci*; the coronet it ſelfe was therefore called [p] *Palma lemniſcata*, and hence figuratiuely hath *Palma* been tranſlated to ſignifie the victory it ſelfe, & ſuch a man as hath often gotten the prize, we ſay proverbially, that he is *Plurimarum palmarum homo*. The reaſon why the Palme-tree, rather then any other tree, ſhould be giuen in token of victory, is rendred by [q] diverſe approued authors to be this; becauſe the Palme tree, though you put never ſo ponderous and heauy waight vpon it, yet it will not yeeld, but rather endeauour the more vpward. Sometimes the reward giuen by the people, was one of thoſe wands, or cudgells vſed in the fore-skirmiſh. That wand was properly called *Rudis*, and it was giuen in token of liberty, ſignifying thereby, that he ſhould thence forward lead his life free frō ſheading of blood, alluding to which cuſtome, this word [r] *Rudis* hath beene vſed to ſignifie any other kinde of freedome

o Suet. Aug 49

p Franc. Sylv. in orat. pro Sext. Roſc.

q Ariſt. probl. 7. Plut. ſymp. 8 q 4 A. Gell. l. 3 4. 6.

r Eraſ. Adag. Rudem accip.

dome or diſcharge: Wherevpon, *Horace* ſaid of himſelfe, that he was *Rude donatus, id eſt*, diſcharged from his paines in poetry. Laſtly, ſometimes he that conquered receaued *Pileum*, a cap: And here it will not be amiſſe, to note the difference betweene *Palma*, *Miſſio*, *Rudis*, and *Pileus*. *Palma* was only a token of victory, not of liberty, or diſcharge. *Miſſio* was not full diſcharge, but a kinde of vacation, or reſpite granted vpon requeſt, vntill the morrow, or ſome other time: againe it was granted to thoſe that were conquered, not to the conquerers. *Rudis* was a token of full diſcharge from bloudie combats, whereby a mans life might be endangered; but yet with this diſtinction, that if it were beſtowed vpon free citizens, hired to be actors in theſe maſteries, then were they thereby reſtored to their freedome alſo, which formerly they forfeited by the vndertaking ſuch baſe conditions: to others which were formerly ſervants, or captiues, it was only a token of liberty and diſcharge. Notwithſtanding ſometimes vpon fauour, ſuch ſervants or captiues, obtained together with their diſcharge from ſuch fights, a priviledge alſo of enfranchiſement, whereby they were thence forward incorporated amongſt free Citizens, the token hereof was *pileus*, for then they receaued a cap, which latter obſeruation helpeth for the vnderſtanding of *Tertullian*, where he ſaith. *Qui inſigniori cuiq́, homicida leonem poſcit, idem gladiatori atroci petat rudem, & pileum præmium conferat.* In which ſpeech, the vniuſt, and the vnreaſonable practiſe of thoſe Heathens is diſplayed, whiles they iudge a man ſlayer to bee expoſed to Lions and wild beaſts: & yet notwithſtanding will reward the bloudineſſe of ſword plaiers. Theſe Fencers fought with diverſe manner of weapons, and accordingly had ſeuerall names, the chiefe of which we read are theſe. *Retiarij*, ſo called from *retiaculum*, ſignifying a flotenet vſed in fiſhing becauſe this ſort of Fencers, did fight with a caſt-net in one hand, to catch, and claſpe about their adverſaries head; and a three forked engin in the other, which they vſed inſteed of a

ſword

ſ Tertul. de ſpect. cap. 21.

ſword. Of this *Iuvenal* ſpeaketh, *Satyr.8.*

---- Monet ecce tridentem,

They did alwaies fight in their coats, whence that Epitheton floweth, *Retiarij tunicati.* The reaſon why they bore vp & downe ſponges, which *Tertullian* calleth *ſpongias retiariorum* may be for the drying vp of the blood, and wiping, or ſtopping of the wounds, which vſe of ſponges [t] *Pliny* noteth. Now becauſe theſe *Retiarij* were ſo light armed, they were compelled every time they ſtrooke with their net, to retire backe vntill they recouered their net againe: & hence the ſecond ſort of fencers, which fought with them, were tearmed [v] *Secutores, ab inſequendo*, from following and purſuing theſe *Retiarij*. The weapons wherewith theſe *Secutores* did fight, were a target, to keep off the net of the adverſary; a ſword; & an helmet. 3[w], *Thraces*, ſo called from the *Thracian* weapons which they vſed, their Target was round and little, called *Parma*, it was at firſt in vſe among the [*] *Thracians*, & afterward ſo proper to this ſort of ſword players, that [x] *Parmularius*, ſignifieth ſuch a one as fauored this company, or factioon of fencers. Their ſword was a crooked falchion, tearmed by them *Sica*. The *Roman* ſouldiers did vſe to weare two of theſe, along one on the left ſide, and a ſhorter on the right ſide, anſwerable to our ſword and dagger, but the forme of the *Sica*, was alwaies crooked, according to that. *Sica δεξιὰν ξίφος ἀπημῶσα*. Privie murtherers practiſing the killing of men, may ſeeme to haue vſed the leſſer, as a pocket dagger; ſuch are thoſe *Sicarij*, of which there is ſuch often mention in *Tully*. 4[y] *Myrmillones*, they are ſometimes called *Galli*, becauſe they were appointed after the maner of the *Gaules*, their weapons were a ſword, a target, an helmet with a creſt in forme of a fiſh. 5[y] *Hoplomachi*, the name imports them to be armed in their fight, it is deriued from the Greek ὅπλον vel ἅπλα, *arma*, and μάχεμαι, *pugno*: vntill *Auguſtus* his time they were named *Samnites*, their armour was an helmet with a tuft on the creſt, a ſword, a ſheild, and a boot on the

t Plin. lib. 31. cap. 11.

v Lipſ. Satur. lib. 2. c. 7.

* Turn. Adv. lib. 5. cap. 10.

x Suet. in Domit. cap. 10.

y Alex. ab. Alex. lib. 6. c. 22.

the left legge. 6ly *Provocatores*, sometimes called *Probatores*, these vsually fought with the *Hoplomachi*; their armour was a sword, a target, an helmet, and bootes on both legges. For as the footmen amongst the souldiers; so likewise, some of the sword-plaiers vsed bootes, for the safeguard of their legges, these bootes were made of * yron, and so common amongst the Grecians in warre, that bootes alone are oftentimes put to expresse the Grecians whole armature, as appeareth by that vsuall epitheton in *Homer*, *δυσκνήμιδες Ἀχαιοὶ id est, Bene ocreati Graeci.* These bootes they wore sometimes on both legs, sometimes on one, according as the manner of fight required. 7ly *Essedarij*, such as fought one against another out of wagons, so called from *Essedum*, a wagon or chariot. 8ly *Andabatae, quasi ἀνὰ βάθρων, ascensores*, because they did fight on horse-back, or out of chariots. This sort of Fencers did fight winking, whence ariseth that Adage. *Andabatarum more pugnare*, the phrase is fitly vsed, when two ignorant persons, are hot in contention about that which neither vnderstandeth. 9ly, *Dimachaeri*, called also *Orbelae*, they fought each against the other, with two swords apeece, as the first name importeth. 10ly, *Laquearij*, such as fought with swords & halters, the vse of the halters, was the same as the *Retiarij* made of their nets, to cast about their adversaries necke or arme, that they might the easier wound them with their sword. Of all these sorts of fencers [1] *Lipsius* treateth largely, to whom I referre the reader. Only here let him take notice, that it was in the power of the people, to discharge any of these combatants in time of the fight, which discharge they signified, *premendo pollicem* by holding down their thumbe: or else to adiudge him to continue the fight, though in neuer so great danger, & this latter they signified *convertendo pollicem*, by turning vp their thumbe.

* Vegét. vide Lipſ. de milit. lib. 3. dial. 7.

[1] Lipſ. Sat. 2.

----Et verſo pollice vulgi
Quemlibet occidunt populariter. *Iuven. Sat. 3.*

Moreover that there might be alwaies in readines, a sufficient

ent number of ſword-plaiers, hence were their ſchooles erected, into which captiues, fugitiue ſervants, and notorious offenders, were ſometimes condemned, ſometimes ſold. The Maſters of theſe ſchooles were called *Laniſtæ*, the ſchollers or vnder-fencers, trained vp there for more publike & dangerous fights, were called *Familiæ*. The word *Familia* is often taken in this ſenſe, to ſignifie the whole company of vnder-fencers, belonging to one ſchoole, & the Maſter of defence, is for this reaſon, more then once by [m] Sueton called *Paterfamilias*. Moreouer, when one challenged another to theſe combats, they ſignified their challenge, by beckning with their little finger. *Horace* alludeth vnto this,

Criſpinus minimo me prouocat, accipe ſi vis,
Accipe iam tabulas. lib. 1. Serm. 4.

This muſt be vnderſtood of a beckning, and that with the little finger; for otherwiſe in time of the fight, if either of the combatants did hold vp his finger, [n] hee ſignified thereby that he did yeeld, and giue place vnto his adverſary: ſome thinke that *Perſius* had reſpect vnto this cuſtome, in that phraſe. ----*Digitum exere, peccas, Sat. 5.*

[m] Sueton. Caligu. 26. Ic. in Domit. 10.

[n] Alex. ab Alex. l. 4. c. 26.

Cap. II.

De ludis Scenicis.

THE ſecond ſort of plaies beſtowed on the people for their fauour, were *ludi Scenici*, ſtage-plaies. The reaſon of this name *ſcena* may be ſeene before. [x] The firſt inſtitution of them was occaſioned by reaſon of a great ſicknes, which by no medicinary help could be remoued; The *Romans* ſuperſtitiouſly conceiting, that ſome new games or ſports being found out, the wrath of the Gods would thereby be vnarmed. [y] Wherevpon, about the fowre hundreth yeare after the building of *Rome*, they ſent for certaine ſtage-players out of *Hetruria*, which they called *Hiſtriones*, from

[x] Lazius de Repub. Rom. lib. 10. cap. 11.

[y] Alex. Gen. dier. l. 6. c. 19.

the *Hetrurian* word *Hister*, which signifieth such a player. *Quia Hister Thusco verbo ludus appellatur, id nomen Histrionibus est inditum. Polidor. de inven. lib. 3. cap. 13.* Concerning the diverse kindes of stage plaies I read of foure, called by the *Grecians, Mimica, Satyra, Tragœdia, Comœdia*: by the *Romans, Planipedes, Attellanæ, Prætextatæ, Tabernariæ.* In English, **Fables Mimicall, Satyricall, Tragicall, Comicall.** These Mimicall players did much resemble the clowne in many of our English stage-plaies, who sometimes would goe a tip-toe in dirision of the mincing dames; sometimes would speak full-mouthed to mock the country clownes; sometime vpon the top of their tongue to scoffe the citizen. And thus, by the imitation of all ridiculous gestures or speeches, in all kinde of vocations, they provoked laughter; whence both the plaies and plaiers were named *Mimi*, from μῖμος an imitator, or one that doth ape like counterfeit others; as likewise they were called *Planipedes*, because the Actors did enter vpon the stage *planis pedibus, id est,* [z] *Excalceati* barefooted. The second sort of plaies were called *Satyræ*, from the lasciuious and wanton country-Gods called *Satyri*, because the Actors in these *Satyricall* plaies, did vse many obscene poems, & vnchast gestures to delight their spectators. Afterward these kinde of actors as we may cōiect, did assume such liberty vnto themselues; that they did freely and without controlement, sharply tax & censure the vices evē of kings, as well as of the commons, insomuch that now we call every witty poem, wherein the liues & maners of men are sharply taxed, A *satyre*, or *Satyricall* poem. [b] *Satyra mordax fuit & salsum genus carminis.* These *satyricall* plaies were also called *Attellanæ*, from the citie *Attella* in *Campania*, where they were often acted. The third sort of stage-plaies, were called *Tragœdiæ*, from τράγος a Goat, and ᾠδὴ an Ode or song; because the actors thereof had a Goat giuen them as a reward. And likewise they were called *Prætextatæ*, from *Prætexta*, a certain *Roman* robe, which these actors

z Alex. ib.

a Antesignan. in suis obser. de metris comicis Teren. præfixis.

b Vid. Erasm. adag. Καμῳδιῶς σατυρικοί.

tors did vſe to weare in their plaies. The fourth ſort were *comœdia*, from κώμαι, which ſignifieth villages, & ᾠδὰ: becauſe theſe kind of actors did goe vp and downe the countrey acting theſe *Comedies* in the villages as they paſſed along. They were likewiſe called *Tabernaria à tabulis, id eſt*, from the boards or pentices wherewith they were ſheltred from the weather, whiles they were acting. Theſe two laſt ſorts of plaies, namely *Tragedies* and *Comedies*, being ſtill in vſe among vs, it will be worth our labour to conſider the communities, wherein they agree; or likewiſe the proprieties or notes of diſtinction by which they differ. I find three ſorts of parts, wherein they agree, namely *partes primaria, acceſſoria, circumſtantes*; parts principall, acceſſory, and circumſtances, which are not ſo truely parts, as accidentall ornaments added to beautifie the plaies. The principall parts are 4. in reſpect of the matter treated of. For as far as the declaration or expoſition of the matter in hand reacheth, without intimation of the event to enſue, ſo far reacheth the firſt part called πρότασις, which word ſignifieth no more then a propoſition or declaration. But when the play enclineth to its heat and trouble, then enſueth the ſecond part called Ἐπίτασις, which ſignifieth the intention or exaggeration of matters. The third part is called κατάστασις, *id eſt*, the ſtate and full vigor of the play. The laſt part which is an vnexpected change into a ſuddaine tranquility & quietneſſe is called κατάστροφὴ: whence by a *metaphor* it hath beene tranſlated to ſignifie the end, or period of any other thing; or rather the inclination vnto the end, as *vitæ humanæ cataſtrophe*, the end of a mans life. In reſpect of the plaiers forſaking the ſtage, the parts were fiue; namely the fiue Acts. For the Actors did fiue times in every *Comedie* and *Tragedie* forſake the ſtage, & make as it were ſo many interruptions. The occaſion whereof is ſuppoſed to haue beene this, that the ſpectators might not be wearied out with a continued diſcourſe or action, but that they might ſometimes be delighted with varietie intermixed. For

those breaches and chasmes betweene each act, were made vp and supplied, either by the *Chorus*, or *Musicke*. Where we must note, that every *Tragedie* and *Comedie* must haue fiue *Actus*, and no more, according to that of *Horace*.

Neve minor quinto, neù sit productior actu
Fabula, ---

Againe wee must remember that it is not necessarie that the πρότασις should alwaies be contained in the first Act: though many times it hapneth so: for in *Plautus* his bragging souldier the *Protasis* is found in the second Act: and so likewise haue the other three parts, *id est*, *Epitasis*, *Catastasis*, and *Catastrophe*, their bounds vnbounded. These Acts are divided into severall scenes, which sometimes fall out more, sometimes fewer in every Act. The definition of a scene being [c] *Mutatio personarum*: Whence we call a subtile *Gnatho*, which can humour himselfe for all persons & times *omnium scenarum hominum*, a man fit for all parts. Now amongst the *Romanes* it was thought vnfit, that aboue three persons should come on the stage in one scene.

c Vid. Erasm. Adag.

Nec quarta loqui persona laboret. Hor.

The *partes accessoriæ* in a *Comedie* are foure, *Argumentum*, *Prologus*, *Chorus*, and *Mimus*. The first is the matter or subiect of the Comedy: the second is the Prologue, which is either ὑποθετικὸς, such as doth open the state of the fable, at which time there needeth no argument; or else συστατικὸς, such as commendeth the fable, or the Poet vnto the people; or lastly ἀναφορικὸς, such as shall refute the obiections and cavills of adversaries. The third is *Chorus*, which speaketh betweene each Act; and this *Chorus* may consist either of one, or many speakers, and that either male or female: [d] but with this caution, that if a male be to be commended, then must the *Chorus* consist of males; if a female be to be commended, then must it consist of females. And alwaies whatsoeuer the *Chorus* speaketh, it must be pertinent to the Act past, or covertly intimating somewhat ensuing.

d Rosin. ant. cap. de trag. & com. lib. 5.

---Non

....Non quid medios intercinat actus,
Quod non proposito conducat & hæreat aptè. *Horat.*

It may ſeeme ſometimes that in the midſt of the play, ſome other ſport was enterpoſed, as hunting, or fencing, or ſuch like to delight the ſpectators with the greater variety, whēce *Horat.* *Si diſcordet eques, medio inter carmina poſcunt*
Aut vrſum aut pugiles.

Theſe enterpoſed varieties were denoted by the name of *Diludia. Diſplicet iſte locus, clamo, & Diludia poſco.* *Horat.* The fourth and laſt acceſſory part, was *Mimus* the clowne, or foole of the play. Of all theſe parts a Tragedy hath only a *Chorus.* The *partes circumſtantes*, or accidentall ornaments were foure, common to both, *Titulus, Cantus, Saltatio, Apparatus, id eſt*, the title of the play, Muſicke, Dauncing, and the beautifying of the Scene. By the Scene in this place, I vnderſtand the partition betweene the players veſtry, and the ſtage or ſcaffold. This partition at the acting of a Tragedy was vnderpropped with ſtately columnes and pillars, and beautified with paintings reſembling princely buildings, & the images as well of Gods as Kings. At the acting of a Comedy country-cottages and private buildings were painted in the out-face of the partition. In the *Satyricall* plaies the painting was ouercome with ſhadowes of mountaines and woods: The [e] firſt of theſe partitions they called *Scenam Tragicam*, the ſecond *Comicam*, the third *Satyricam*. The difference betweene a *Tragedy* and a *Comedy*, which may bee collected out of [f] *Anteſignanus* are theſe: firſt in reſpect of the matter, becauſe a *Tragedy* treateth of exilements, murders, matters of griefe, &c. a *Comedy* of loue toyes, merry fictions, and petty matters, the one being *δεινῶν μεταχὴ*; the other *πάχνης μετοχή*. In a Tragedy the greateſt part of the Actors are Kings and noble perſons; in a Comedy priuate perſons of meaner ſtate and condition. The ſubiect of a Comedy is often feigned, but of a Tragedy it is commonly true and once really performed. The beginning of a Tragedy is

[e] Alex. Gen. dier. l. 5. c. 16.

[f] Anteſig. in ſuis obſerv. de metris comicis Terent. præfixis.

calme and quiet, the end fearefull and turbulent; but in a Comedy contrarily the beginning is turbulent, and the ende calme. Another difference which *Anteſignanus* hath omitted is behouefull for vs to knowe, namely that the Tragedians did weare vpon the ſtage a certaine ſhooe, comming halfe way vp the legge in manner of buskins, which kind of ſhooe was called by them *Cothurnus*, and from that cuſtome it hath beene occaſioned, that *Cothurnus* is tranſlated to ſignifie a Tragicall and loftie ſtile, as *Sophoclea digna Cothurno*, matters beſeeming *Sophocles* his ſtile: and ſometimes a Tragedie it ſelfe. The Comedians did vſe an high ſhooe comming vp aboue the ankle, much like a kinde of ſhooes which plough men vſe to weare to keepe themſelues out of the durt. This kinde of ſhooe is called *Soccus*, by which word ſometimes alſo is ſignified a Comedy, as

Nigris medium impedit crus Pellibus. Horat Ser. l. 1. Sat. 6.

Hunc ſocci cepere pedem, grandeſq; Cothurni. Horat.

§ All theſe ſorts of ſtage plaies both *Mimicall*, *Satyricall*, *Tragicall*, and *Comicall*, if they were acted according to the *Grecian* rite and cuſtome, then were they called *Palliatæ*, from *Pallium*, a certaine mantle which the *Grecians* did vſe to weare: if according to the Roman manner, then were they called from the *Romane* gowne *Togatæ*.

§ Anteſig. ib.

Cap. 12.

De Troiano ludo, ſive Troia.

IT was a cuſtome among the *Romans*, ſometimes in the yeare to haue a generall muſter of the younger ſort, who meeting in the cirque, exerciſed there, running, racing, riding at tilt, and other ſuch like feats of activity, whereby they might be trained vp for their better ſervice in the war. They choſe a Captaine, one or other of noble birth; [a] He was called *Princeps iuventutis*. They divided themſelues into diſtinct companies, ſometimes marching forward, one againſt

[a] Hoſpin. de orig. feſt.

gainſt another, ſometimes retiring backward, ſometimes skirmiſhing, ſometimes imbatling themſelues in one forme, ſometimes in another, as if it were a truefield pitcht. A large and full deſcription hereof we haue in *Virg. Æn. 5.* This game was called *Troianus ludus*; or ſimply [d] *Troia*, without the addition of any other word, becauſe *Aſcanius Æneas* his ſonne firſt brought it out of *Troy*, according to that of *Virgil* in the fore-quoted place,

Hunc morem, curſus, atq; hæc certamina primus
Aſcanius, longam muris cùm cingeret Albam,
Rettulit, & priſcos docuit celebrare Latinos.

Among other ſports vſed at this time, [e] there was alſo a kind of moriske daunce, wherein the young men danced in harneſſe, after a warlike manner, being thereby trained, to exerciſe all parts of their body, by ſundry geſtures, as well to auoid all venues and defend themſelues, as to annoy & offend the enimie. This kinde of dance is generally called *Pyrrhica ſaltatio*; becauſe it was inuented by [f] *Pyrrhus*. Yea ſome ſay, that *Suetonius* taketh *Troianus ludus*, and this *Pyrrhica ſaltatio*, for one and the ſame thing. Nay *Alexander* confoundeth both theſe, with thoſe other games tearmed *Iuuenales ludi*. But doubtleſſe herein he was miſtaken, for thoſe *Iuuenalia*, were inſtituted by [h] *Nero* [i] at the ſhauing of his beard, and had not their name, becauſe young men were the chiefe actors, [k] but becauſe old men would now by the practiſe of youthfull ſports, turne young againe. The actions at this time were ſo farre, from ſauoring of military diſcipline, that on the contrary, they were for the moſt part effeminate and wanton.

d Suet. in Iul. cap. 39.

e Alex. ab Alex. l. 6. cap. 19.

f Plin. l. 7. c. 56
g Serv. in l. 5. Æn. It. Alex. ab Alex. loco ſupra citato.
h Sueton. in Neron. c. 11.
i Cœl. Rhod. lib. 19. cap. 22.
k Roſin. Rom. antiq. l. 5. c. 22.

CAP. 13.

Cap. 13.

De tesseris, talis, & latrunculis.

BEfore we treat of the game callad *Ludus tesserarius*, it will not be amisse first to cleere the word *tessera* from all ambiguity. The word hath foure remarkable significations, all alluding to matters of antiquitie, First it signified a watch word among the souldiers in the campe, whereby they discerned their enimies, or spies, from their own fellows;[o] *Alexand. ab Alexandro* giueth many examples hereof: *Augustus Cæsar* in his camp, gaue for his watchword *Venus genetrix. Pompeius magnus* gaue for his *Hercules invictus &c.* & this was called *Tessera militaris*. 2ly There was *Tessera frumentaria*, a certaine ticket, or token giuen by the Magistrate vnto the poore, at the tendring whereof,[p] at the beginning of every month, certaine doles & measures of corne were giuen; it is evident that at first there were such monthly distributions of corne, even by that endeavour of *Augustus* his, who for the avoiding of trouble, would had reduced all to three set distributions in the yeare, but prevailed not: sometimes insteed of corne, or happily ouer and aboue the corne, there were at certaine times, doales of mony giuen to the poore, which doale whosoeuer receaued, tendred his token or bill of exchange, termed *Tessera numeraria*; these two last acceptions, although they may be distinguished, yet because they both tended to the releese of the poore, I haue ioined them together. Thirdly, there was *Tessera hospitalis*, a certaine token of wood, or such like matter, which vsually was cut in two by those who had engaged themselues mutually to entertaine each other, whensoeuer entertainement should be craued, yea this wooden ticket or tally being mutually accepted, it was lawfull for their posterity bringing this token, to challenge hospitality. Thus he in *Plautus*, having

[o] Alex. ab Alex. lib. 4. c. 2.

[p] Sueton. Aug. cap. 40.

ving formerly vſed *Antidomus* as his hoaſt, after *Antidomus* his death, he commeth vnto *Antidomus* his adopted ſonne not doubting of entertainment for faith hee. *Deum hoſpitalem, ac teſseram mecum fero*, Hence from this cuſtome, or tendering a token when hoſpitality ſhould be craued, that adage hath beene deriued, *Teſseram hoſpitij confregit, id eſt*, He hath broken the league of hoſpitality. Laſtly, *Teſſera* ſignifieth a dye, where we muſt note that the word *alea*, which commonly is tranſlated a dye, is a generall word, applyed equally both to the *Teſſera*, and the *Tali*, to denote the vncertaintie of both games. *Teſſera*, properly ſignifieth a dye; *Talus*, an huckle-bone, ſuch wherewith children play Cotha∥. In determining the ſeuerall chaunces in theſe playes, Authors are not onely diuers, but in many things contrary each to other, neither can any certainety be gathered from their writings; whether my coniectures drawn from comparing their ſeuerall and contrary writings, may giue light for the right vnderſtanding of decayed knowledge herein, I ſhall willingly ſubmitte my ſelfe to the cenſure of the indicious. The ſeuerall chaunces which I reade of are theſe, ſome ariſing from the number of poynts in the dye, as *Senio*, *Monas*. More vſually amongſt the Grecians, [q] theſe two were termed Κῶος, & χῖος, ὁ μὲν γὰρ χῖος ἐλύπατο ἓν, ἀλλὰ κῶος ἓξ, *id eſt*, *Chius* anſwered our Ace, *Cous* our Sice. And this is confirmed by a prouerbe in vſe among the Græcians. Κῶος πρὸς χῖον, which the learned interpret to be, a compariſon of vnequalls: a Pygmie, with a gyant, others named from the number I reade not of; Perhaps they played not with a ſingle dye, but with three as wee vſe in Paſſage, whence their chaunces might haue their name, not from the number of poynts in each ſeuerall dye, but from them all being caſt. But that the *Teſſera* had poynts in them, appeareth by the teſtimony of [a] *Turnebus*: And hence *Numeri*, is ſometimes, vſed for *Teſſera*.

[q] Suidas in voce κῶος.

[a] Turneb. adu. lib. 5. c. 6.

Seu lndet numeroſque manu iactabit eburnos.

Ouid. 2. de Art. Amand.

That they vſed more *Tali* in their plaies, then they did *Teſſera*, [b] *Turnebus* obſerueth from that verſe.

[b] Turn. adu. lib. 6. cap. 10.

Non ſum talorum numero par teſſera.

Martial. l. 14. epigr. 15.

[c] *Celius Rhodiginus* ſpeaketh more diſtinctly, ſaying that in their play they vſe three *Teſſera*, but foure *Tali*. Theſe *Tali*, were ſometimes called *Vulturij* as appeareth by the ſame [d] *Rhodiginus*, and likewiſe *Reguli*, the reaſon of both is rendred by [e] *Turnebus*, he being of opinion, that theſe *Tali* had not points in them as the *Teſſera*, ſayeth, *pro numeris effigies animalium habebant, vt vulturum, aut regulorum*, that they were termed *Vulturij*, is probable by that of *Plautus*.

[c] Cœl. Rhod. lib. 20. cap. 27.

[d] Cœl. Rhod. lib. 20. cap. 18.

[e] Turn. adu. lib. 5. cap. 6.

Tace parumper, iacit Vulturios quatuor.

Plaut. curcul. Act. 2. ſc. 3.

But that the cocklebones ſhould be called *Reguli*, I ſomewhat doubt, for no queſtion: but *Regulus* and *Baſilicus* in this place ſignified one and the ſame thing, the one being the *Latine*, the other the *Greeke* word, now *Baſilicus* as ſhall preſently appeare, ſignified the whole chaunce. So confuſed are the opinions of Authors herein, that to aſſigne the reaſon for euers chaunces name, or to reduce euery chaunce determinatly, either to the *Teſſera*, or the *Tali*, I thinke it impoſſible. Only ſome may be thus reduced, and in generall wee may conceiue probably, which chaunces were fortunate, which vnfortunate. The vnfortunate chaunce in the *Tali*, was commonly called *Canis*, or *Canicula*, or *Chius*:

The moſt fortunate chaunce *Venus*, or *Baſilicus*. [f] *Lipſius* taketh them both for one, and that not without ground, if we compare *Horace*, and Plautus; both of them treating of that old cuſtome of throwing theſe cocklebones at their feaſts, for the choice of their *Modiperator*, or maſter of the feaſt, which ſhould preſcribe lawes for drinking to the whole company. *Venus arbitrum,*

[f] Lipſ. antiq. lect. lib. 3. c. 1.

Dicet bibendi. ſaith *Horace.*

Lactu

Iacto Basilicum, propino magnum poclum.

Saith *Plautus, curcul:* and why may not this Cast be iustly termed *Basilicus*, seeing the *Modiperator* hereby designed, was by the *Gracians*, not only called συμποσιάρχος, but also βασιλεὺς, The King, Prince, or chiefe commander at the table. This cast was then brought to be thrown, when all foure cocklebones appeared not one like the other, but all with different faces, [g] *Venus consurgebat ex talis quatuor iactatis, vbi diuersam omnes ostendissent faciem:* with whome accordeth [h] *Turnebus. Venus erat, cùm nullus eodem vultu stabat talus. Hercules* was also a lucky throw, but whether the same as *Venus* I haue not yet learned.

g Cœl. Rhod. lib. 20. c. 27.

h Turn. adu. lib. 5. cap. 6.

The games with the *Tesseræ* I make no question were diverse, the ignorance of which, they being long since out of vse, haue caused much obscurity in this matter, one game there may seeme to haue beene in vse, where the iust number of eight seemeth to haue beene the chiefe cast, It was called [i] *Stesichorius iactus*, or *Stesichorius numerus*. The reason is rendred by *Rhodiginus*, because *Stesichorus* his tombe, erected at great charges for greater magnificence, *Ex octonis constabat omnibus, id est*, consisted of many eights; to wit, *eight angles*, or corners; *eight columnes*; *eight stepps*, or greeses. In their common game, the most fortunate throw is thought to haue beene three **Sices**, we call it in **passage**, a **Royall passe**, whence it was commonly called *Senio*;

i Cœl. Rhod. lib. 20. cap. 27.

--- *Quid dexter senio ferret*
Scire erat in votis, damnosa canicula quantum
Raderet, angustæ collo non fallier orcæ. Pers. Sat. 3.

Which one place of *Persius*, giueth light to this in three things. First, that the winning cast, was tearmed *Senio*, and if you make *Basilicus*, a terme common both to dice, & cockebones; as *Venius* is we may fitly render it, a **Royall passe**. Secondly, the loosing cast *Canis*, or *Canicula*, in English a **Dogge-Chaunce**. Thirdly the manner of their play, both in their Dice, and Cocklebones, was by casting them, not imme-

diatly out of their hand, but out of a dish, or narrow mouthed vessell, that there might be faire play, withour striking, or cogging the dye; this vessell *Persius* calleth *Orca*, and describeth it to haue a narrow mouth, or streight necke. *Horace* applyeth it vnto the *Tali*, *Satyr. 7. l. 2.*

Mitteret in Pyrgum talos---

Calling it *Pyrgus*, vsing the *Greeke* word Πύργος a towre, or steeple so called from πῦρ fire; because the forme thereof, being *acuminata*, resembleth the rising of fire: the word intimateth *Horace* his *Pyrgus*, to haue beene of the like forme, with *Persius* his *Orca*. But to returne to the game, the chiefe cast as I said was thought to be when three Sices appeared, which opinion is strengthned, by that common prouerbe: *Aut tres sex, aut tres tessera, id est*, either three Sices, or three Aces. And the first of these being the best, the other the worst chance in the Dice: The prouerb implyeth thus much, I will put all to the hazard, I will winne all or loose all. This cast was also called *Mydas*, for as *Rhodiginus* speaketh, *In Tesserario ludo, Mydas iactus erat fortunatissimus*, with whom accordeth [k] *Dempster*, prouing it out of *Suidas*.

[k] Dempst. antiq. Rom. lib. 5. cap. 1.

Μίδας ὁ ἐν εὐβοίσιν ἀβουλότατος

Mydas in tesseris consultor optimus.

This name signifying the best chaunce, was not appropriated to the *Tessera*, but sometimes also signified the fortunatest chaunce of the *Tali*. Likewise from that of *Martial. lib. 13. 1.*

Senio nec nostrum cum cane quassat ebur.

It is noted by [l] *Erasmus*, that as often as an Ace hapned to be throwne, together with a Sice; so that *Senio*, and *Canicula* appeared together at one throwe, it was a loosing cast. [m] *Suetonius* is cleere in the proofe hereof, if for *Aut* wee substitute *Et*, which vnlesse we doe, it will be a matter of great difficulty, to make congruity of sense. His words are, *Talis enim iactatis, vt quisq; Canem aut Senionem miserat, in singulos talos, singulos denarios in medium conferebat, quos tollebat vniuersos, qui Venerem iecerat.* Turne *aut* into *&*, the sence is obuious.

[l] Erasm. adag. Chius ad Coum.

Looke

Looke who threwe an **Ace** and **Sice** together for euery dye he ſtaked and laid to the ſtocke a Dinere; which he tooke vp and ſwooped all cleane, whoſe luck it was to throwe *Venus*. *Euripides*, as I take it, was not a chaunce but a kinde of game, much reſembling that which is in vſe with vs, called **one and thirty**: The number of that game was **Fourty**, and the game called *Eripides*, becauſe *Euripides* was one of the Fourty chiefe gouernours in *Athens*, when the thirty Tyrants were depoſed. The reaſon of my coniecture is taken from [n] *Rhodiginus*, whoſe words are theſe: *Euripides numerum continebat quadragenarium, quoniam uidetur unus fuiſſe Euripides præfectorum quadraginta, poſt triginta Tyrannos Athenis exactos.* From all we may note, that the *Iactus prouus*, or *Iactus plenus*, that is the lucky caſt, wee may engliſh it **Take all**, was commonly called *Senio*, *Venus*, *Cous*: the *iactus ſupinus*, or *iactus inanis*: was likewiſe commonly knowne, by no other name then *Canis*, *Canicula*, or *Chius*, we may Engliſh it **Blanke**.

n Cœl. Rhod. lib. 20. cap. 27.

[o] Some haue deliuered their minde touching theſe plaies thus; that the *Tali*, or Cocklebones had but foure faces or ſides, and therefore yeelded fowre chaunces, and no more; the firſt is ca'led *Canis*, or *Canicula*, or anſwering to our **Ace**: and it was the worſt of all: the oppoſite vnto it they tearme *Venus*, or *Cous*, and is accounted the beſt: *Merula* againſt ſenſe vnderſtandeth the nu nber of ſeauen by it, it may ſtand for our **Sice**. The third bore the name of *Chius*, proportioned to **Trey** with vs, and the laſt *Senio*, which is as much as **Quatre**. For in theſe *Tali* there is no chaunce of **Deaur**, or **Cinque**. This opinion at firſt I confeſſe ſeemed plauſible to me, but how fully it diſcouereth the game, and how agreeable it is to antiquity let others iudge. The chaunces of the dice, or cocklebones, as they were tearmed *Iactus*, & *Miſſus*, **caſtes**: ſo alſo were they called [p] *Manus*, figuratiuely, as euery ſtroke in the fencing ſchoole, was termed *Manus*: The firſt acception of *Manus*, is prooued out of [q] *Suetonius*, where

o Barthol. Merula in Ov. de art. amand. l. 2.

p Lipſ. Satur. lib. 2. cap. 20.

q Suet. Aug. 71.

where *Auguſtus Cæſar* ſpeaketh thus. *Si quas manus remiſi cuiq́, exegiſſem, aut retinuiſſem quod cuiq́, donaui, viciſſem &c: id eſt,* If I had exacted thoſe chaunces which I remitted euery one, and kept that which I beſtowed, I had gotten &c. The ſecond acception of *Manus*, is confirmed by [r] *Quintilian*, who calleth the ſecond, third, and fourth ſtrokes in fencing, *ſecundas, tertias, & quartas manus.* Our Engliſh phraſe is not much vnlike; He hath had a good or bad, lucky or vnlucky hand. Another game there was of like nature played with table-men, the word *Latrunculus* tranſlated a table-man, doth properly ſignify an hired ſouldier, ſuch a one as ſerued for pay: whence *Latro*, whoſe diminutiue *Latrunculus* is, hath his denomination *ἀπὸ τῦ λατρεύειν à ſerviendo.* In this ſenſe the word is vſed by [s] *Plautus.*

[r] Quint. lib. 5. cap. 14.

[s] Plaut. mil. glor. Act. 1. ſc. 1.

Nam rex Seleucus me opere oranit maximo,
Vt ſibi latrones cogerem, & conſcriberem.

Secondly, becauſe ſouldiers are ſo prone, and apt to commit robberies, hence *Latro*, and *Latrunculus*, hath beene vſed alſo to ſignify a theife or robber. And thirdly in a borrowed ſenſe, theſe words ar applyed to ſignifie table-men, or cheſſemen; becauſe this game hath the expreſſe forme and repreſentation of a warre, or batle, fought betweene two armies: Inſomuch that [t] *Pyrrhus* King of Epire, being skillfull in plotting ſtratagems, firſt tought his ſouldiers that art of projecting, by playes and repreſentations thereof in the table-men. [u] Some are of opinion, that it was firſt inuented in the ſeige of Troy, by *Palamedes*, who that he might keepe his ſouldiers in better order, allowed them this kinde of recreation, whence theſe cheſſe-men, are ſometimes called *Palamediaci calculi*, they were made ſometimes of wax, ſometimes of glaſſe, ſometimes of other matter, The game ſeemeth to haue beene the very ſame with that which we call cheſſe. Other games there were of leſſer note for recreation, of which ſort were principally theſe that follow; *Petaurum, Diſcus, Pila, Trochus, Nuces, πέταυρον*, from whence this latine word

[t] Donat. in Terent. Eun. Act. 4. Sc. 7. ad Illud, Idem hoc iam Pyrrhus factitavit.

[u] Suidas in voce πεττεία

Petaurum

Petaurum commeth, ſignifiing properly a perch or pole, on which poultry rouſt, and hence the rope or ſtaffe on which light perſons were wont to dance, and try maſteries, was termed *Petaurum*. It ſignifyed alſo a certaine hoope, or wheele, through which actiue perſons would runne ſwiftly, their body ſo warily carried, that in their rūning, they would not touch the hoope or wheele, to this purpoſe *Alex. Neop.* ſpeaketh. [a] *Fuit quoq; petauri ludus admirationis præcipuæ, cum per circulos quiſpiam veloci curſu tranſvolat, corpore ita libra-to, vt circulum non offendat.* Such tumblers as were practized in this kinde of actiuity were thence called *Petauriſta*. *Diſcus* was a round ſtone in manner of a bowle, ſometimes made of yron, or braſſe, whoſoeuer could caſt it fartheſt got the victory: the players thereat were called *δισκοβόλοι*, from *δίσκος* and *βάλλω* to dart, or caſt out any thing. *Pila*, it ſignifieth a ball, and of it there were many ſorts. 1 *Harpaſtum*, which we may Engliſh a **Foote-ball**; [b] This ball being put downe in the midle, two companies of young men, ſtroue who ſhould driue it through the others goale. 2ly *Pila* which ſignified a diſtinct kinde of ball ſo called from the haire with which it was ſtuffed. 3ly *Follis*, a light kinde of ball, ſo called becauſe it was ſtuffed with a bladder: with this old men, and young children played. 4ly *Paganica*, this had its name *à pagis*, from villages and country townes, where it was chiefely in vſe, it was ſtuffed with feathers: of all theſe. *Martial. l. 14. 45.*

Hæc quæ difficilis turget paganica plumâ,
Folle minùs laxa eſt, & minùs arcta pilâ.

Fiftly *Trigonalis*, and this I thinke both the *Pila*, and the *Follis* were called, in oppoſition to the *Paganica*: the reaſon of the name is taken, from the forme of the tenis-courts, which becauſe they were three ſquare, in manner of a triangle, [c] hence was the ball with which they played in ſuch courts termed *Trigonalis*. The players themſelues, were termed *factores*; thoſe that did caſt in the ball into the court, were cal-lem ſimply *datores*; and [d] hence *datatum ludere*, is to play at ball

[a] Alex. ab Alex. lib. 3. c. 21.

[b] Alex. ab Alex. ibid.

[c] Cœl. Rhod. lib. 12. c. 18.

[d] Turneb. adverſ. l. 7. c. 4.

ball, or elſe, we may imagine the reaſon of this phraſe to be, becauſe ſuch as in their play by negligence did let downe the ball, did *ſuram dare*: hold out their legge, to haue the ball ſlung at it. *Trochus*, it ſignifieth a top, as it was commonly called *Trochus*, from τρέχω to runne; becauſe of the ſwiftnes thereof: and likewiſe *Turbo* in latine, for the ſame reaſon: ſo ſometimes it was called *buxum*, from the matter whereof it was made, as.

—Buxum torquere flagello. Perſ. ſat. 3.

Nuces, with nutts they had many plaies, ſome of which are at this day in vſe. One holding an vncertaine number of nutts in his hand, his fellow that played with him, was to diuine whether the number was **euen** or **odde**. This *Horace* calleth.

Ludere par impar----

The *Grecians* ζυγὰ ἢ ἄζυγα. of this *Ouid. de nuce.*

Eſt etiam, par ſit numerus qui dicat, an impar:
Vt diuinatus auferat augur opes.

Sometimes they piled their nutts, three beneath and one on the toppe, in manner of a caſtle, of this *Ouid*: ſpeaketh likewiſe.

Quatuor in nucibus non amplius alea tota eſt,
Cùm ſibi ſuppoſitis additur vna tribus.

Yea, theſe nutte-games were ſo many, and ſo peculiar to children, that ſtriplings growing into mans eſtate, were ſtill reputed children, vntill they forſooke theſe nutte-ſports, whence *nucibus relictis*, ſounds as much, as childiſhnes being paſt: and this is thought to be the reaſon, why the [c] bride-man, as ſoone as he was married vſed to caſt nutts among the people: intimating thereby a farewell to ſuch childiſh paſtimes. Many other childiſh games they had, among which one reſembled our **crolle and pile**: [f] they termed it *Capita vel nauim?* becauſe the coyne which they fillipped or toſſed into the ayre, bore ſtamped on the one ſide *Ianus* his two faces, on the other ſide a ſhippe.

[c] Roſin. ant. Rom. lib. 5. cap. 37.

[f] Anton. Conſtan. in Ouid. Faſt. lib. 1

CAP. 14.

Cap. 14.

De mensis & conuiuijs Romanorum.

BEfore we proceed vnto the deſcription of the *Roman* tables, we will explaine thoſe fiue tearmes, *Ientaculum, Prandium, Merenda, Cœna, & Comeſſatio.* Which fiue words doe ſignifie the fiue ſeuerall feedings each day, which children, old men, labourers, trauellours, & ſuch like, did vſually obſerue; for others of healthier and ſtronger conſtitution, did commonly eat but one meale, at the moſt but two in the day. *Ientaculum* ſignifieth their break-faſt, and it had its name, like as our Engliſh word hath, *à ieiunio*, from faſting: In former times it was called [a] *Sulatum* from *Sule*, the name of a certaine hearb, with the root whereof, they were wont to ſeaſon that wine, which they had at breakfaſt: For as [b] *Plutarch* ſaith, their break-faſt was nothing but a ſop dipped in wine. In the ſame place, hee likewiſe ſaith, that in old time they had no dinner, but that which we call *Prandiũ*, was the ſame with them as *Ientaculum*, and thus much the Greeke word ἄριστον ſignifying a dinner, doth intimate, it being ſo called, *quaſi* ἀωέριστον, from ἄυριον, which ſignifieth the morning. The name *Prandium*, which wee render a dinner, was ſo ſaid *quaſi* πρὸ ἑσπέρου, ſignifying noone-tide, or mid-day. The third time of taking meat, was called *Merenda*: we may engliſh it our afternoones beauer: it was called alſo *Antecœnium*, becauſe it was taken a little before ſupper. [c] *Merenda eſt cibus qui declinante die ſumitur, quaſi poſt meridiem edendus, & proximè cœnæ; vnde & Antecœnium à quibuſdam dicitur.* The fourth time, was their ſupper, called *cœna, quaſi* κοινὰ, which ſignified as much as **Common**, [d] *quia antiquitùs ſeorſim ſolebant prandere Romani, cœnare cum amicis.* Their fift and laſt time of feeding, was called in Latine *Comiſſatio* by ſome, by moſt *Comeſſatio à comedendo.* [e] *Ioannes*

a Feſtus antiq. lib. 5. cap. 27.

b Plut. in ſym. lib. 8. q. 6.

c Iuſt. Lipſ. cent. 1. ep. 65.

d Plut. ſymp. lib. 8. q. 6.

e In orat. pro M. Cœlio.

f Lazius de repub. Rom. lib. 3. cap. 3.

nes *Tiſtinus* ſaith, that it is a beauer taken after ſupper, or a night drinking. But the chiefe feaſt, whereat they [f] gaue entertainement, being their ſupper, we will conſider theſe three things therein. Firſt *accumbendi vel diſcumbendi rationem*, that is, the manner of their lying at ſupper (for they did neither ſtand, nor ſit at table as we doe;) ſecondly, the forme & faſhion of their table; and laſtly the parts of their ſupper. The place where they ſupped was commonly called *Cœnaculum à cœna*, as our **dining chamber** is ſo called from our dinner. It was alſo called *Triclinium* or *Biclinium*, from κλίνη a bed: for ſometimes there were three beds, ſometimes but two about the table, vpon which the gueſts did ſit, or rather lye along. In this dining parlour, was placed a table, ſometimes made quite round, and for the common ſort of people it was made of ordinary wood, ſtanding vpon three feet; but for men of better ranke, it was made of better timber, inlaid ſometimes with wood of diuerſe colours, ſometimes with ſilver, and it ſtood vpon one whole intire foot, made of Iuory, in the forme of a great lyon, or Leopard, &c. Vnto the meaner ſort of theſe tables *Horace* alludeth.

----Modò ſit mihi menſa tripes. *Hor. Serm. 13.*

Vnto the other *Iuvenal.* *Sat. 11. verſ. 122.*

----putere videntur
Vnguenta atq; roſæ, latos niſi ſuſtinet orbes
Grande ebur, & magno ſublimis pardus hiatu.

Sometimes this table was made in the forme of an halfe moone, the one part thereof being cut in with an arch or ſemicircle, and then it was called *Sigma*, becauſe it did much reſemble the letter *Sigma*, ς which as it appeareth by certain marble monuments, was in old time made like a *Roman* C. Hence is that of *Martial. lib. 14. 87.*

g Roſin. antiq. lib. 3. c. 28.

Accipe lunata ſcriptum teſtudine ſigma.

If any man ſhould demaund the reaſon, why they cut their table in that forme, I muſt confeſſe I haue not read any reaſon in any author bearing ſhew of probability. My conieture

iecture is this. It is agreed vpon by most authors, that in the round tables the one quarter was reserued void from guests that the waiters might haue a conuenient roome to attend: therevpon it seemeth not improbable vnto mee, that this crooked arch was made for the waiters. I acknowledge that this *Sigma*, hath beene translated diversly by divers writers, as it appeareth by *Lipsius* in the forequoted place. By some it hath beene taken for the parlour, or supping chamber: so *Lipsius* in his *Antiquities*; by others for the supper or feast it selfe: so *Cælius*. By *Lipsius* since it hath beene thought a certaine place, erected in the manner of a hemicycle, or halfe moone, against which they did place one continued bed, able to take six or seuen guests. But *Brodæus*, and *Ditmarus*, in my opinion, haue more truely taken it for the table it selfe. About the table that was perfectly round, were placed three beds, couered with tapestrie, or some other kinde of couering, according to the wealth and abilitie of the person, and thus

----*Strato discumbitur ostro*;

the beds being ready furnished, the guests lay downe in manner as followeth. Each bed contained three persons. sometimes foure, seldome or neuer more, except at their great and more solemne feasts. If one only lay vpon the bed, then he rested the vpper part of his body vpon his left elbow the lower part lying at length vpon the bed: but if many lay vpon one bed, then the vppermost did lie at the beds head, laying his feet behind the second his back; the second rested his head in the others bosome, hauing a cushion put betweene, laying his feet behind the thirds backe; in like manner the third and fourth did lye. The number of the guests was not great, seldome times exceeding nine: whence *A Gellius* [h] saith, that the number of guests should begin with the *Graces*, & end with the *Muses*, that is, they must not be sewer then three, nor more then nine. This also hath been the reason of that adage. [i] *Septẽ convivium, novem convitium faciũt.*

h A. Gel. noct. Atti. l. 13. c. 11. *Tribus aut novem miscentur cyathis pocula commodis. Qui musas amat impares, Ternos ter cyathos attonitus petet Vates: tres prohibet supra Rixarum metuens tãgere Gratia Nudis iuncta sororibus.* Horat. carm. l. 3. Od. 19.

i Alex. Gen. dier. l. 5. c. 21.

Heliogabalus ſeemeth to haue beene delighted with the number of eight, [k] whence he inuited to ſupper *octo calvos, octo luſcos, octo podagroſos, octo ſurdos, octo rancos, octo inſigniter nigros, octo inſigniter longos, octo prægingues, & octo naſutos, delectatus illo Graco proverbio, ἀναπτὰ.* Thoſe that were not inuited, but came of their owne accord vnto a feaſt without bidding, by *Plautus* they are called *Muſcæ*, flyes; by others they are called *Vmbræ*, ſhadowes. Hence is that of *Horace.*

k Stuckius de conui. l. 2. c. 2.

----Locus eſt & pluribus vmbris.

The party which inuited the gueſts, ſometimes expreſſed his earneſtneſſe, by pulling and hailing one by the cloak: whence *Stuckius* obſerueth, that when they would ſhew how earneſtly they were inuited, they would ſay, *Penulam mihi ſcidit*, he tore my cloake off my ſhoulder. Againe on the other ſide, when they would ſhew, how eaſily the gueſt was intreated, they would ſay, *Illius ego vix tetigi pennulam, tamen remanſit.* Before the gueſts ſate downe, their ſhoes were vſually pluckt off, that they might not foule the beddes, on which they did lie [l].

l Terent. in Heautont.

Accurrunt ſerui, ſoleas detrahunt,
Video alios feſtinare, lectos ſternere, cœnam parare.

m Cœl. Rhod. l. 27. c. 26.

[m] They likewiſe did gird their heads with fillets and hairelaces, as often as they intended to drink more then ordinary, thereby to prevent the vapours, which otherwiſe would annoy the head: for which reaſon, they did likewiſe [n] vſe garlands of yuie, and mirtle-tree, and roſes; the coolneſſe of which comforted the braine. Theſe garlands were alſo *Symbolum plenæ libertatis*, a token of their full liberty. The carver in theſe feaſts, was called from his artificiall ſetting and ordering the diſhes vpon the table *ſtructor*; & from his artificiall carving and cutting vp of the diſhes, *Carptor. Trypherus*, as appeareth by *Iuuenall. Satyr. 11.* was famous for his skill in caruing: he did ſet vp a ſchoole, teaching ſuch as came vnto him by rules and precepts; and alſo ſhewing them the

n Plin. l. 16. c. 1

manner

manner of caruing: which that he might the better do, he furnished a table with seuerall dishes of meat, formed and fashioned in wood, with a dull knife, shewing his schollers after what manner, and with what gesture of their body, they should cut vp this or that dish. This supper, because of the wooden dishes of meat, was called *Cœna vlmea*. They divided their supper vsually into three parts, which they termed their first, second, & third course. In the first course commōly was serued mulberies, lettices, sausages, & alwaies **egges**: as likewise in the last course (whether the second, or third) were serued, nuts, figs, grapes, but alwaies **apples**: [p] whence we say proverbially, *Ab ouo ad mala*, from the beginning of the feast to the end; or simply, from the beginning of any thing to the end thereof. The middle course, was the maine supper, and the chiefe dish thereof was called *Caput cœnæ*: In *Lipsius* his phrase, it is called [q] *Fundus & fundamentum cœnæ*. Their first messe they called the *proœmium*; the last the *epilogue*, which because it consisted so much of sweet and delicious meats, hence did they apply that vnto the second course, *αἱ δευτέραι φροντίδες σοφώτεραι, id est, Secundæ cogitationes sunt sapientiores*. If the table were well furnished with plenty and variety of dishes, it was called *Cœna recta*, or *cœna dubia*: *Recta* in this place signifieth as much as *vera*: thus ὀρθὸς among the *Gracians*, sometimes signifieth *verus & sincerus*. The phrase intimateth, that it was a true supper, opposed to that dole of meat distributed by princes to the people which from the panier or basket, in which it was brought, was called *sportula*: sometimes they distributed money insteed of meat: this also was named *sportula*: so that *sportula* denoteth any kinde of dole either of meat or mony, which as often as it was giuen in lieu of a suppper, it was opposed to *cœna recta*. Yea sometimes by *sportula* wee may vnderstand a light and short supper.

Promissa est nobis sportula, recta data. *Martial.*

The reason why a great feast should be tearmed *cœna dubia*,

o Stuk. de conv. l. 3. c. 3.

p Panciroll. lib. rer. deperdit cap. de cibi capiendi modo.

q Stuk. lib. 3. de conviv.

Turneb. adv. lib. 5. cap. 10.

is, becauſe in ſuch variety of diſhes, the gueſt is many times doubtfull of which to beginne. Contrary to this is *cœna ambulatoria*, a ſupper where one diſh walketh through the table.

LIB

LIB. 3. SECT. 1.

Of the Roman Assemblies.

De Comitijs.

HITHER-VNTO haue wee insisted vpon the description of the most remarkable parts of the *Roman* citie, together with the seuerall diuisions of the *Roman* people, as also the *Roman* religion, where wee haue seene the generall diuisions of their Gods and their sacrifices, with their ceremonies thereunto belonging, and likewise of the *Roman* games both greater and lesse. Now are we to proceed to that part of gouerment, which is politicall or ciuill: where we will first speake of their assemblies called *Comitia*, then of their ciuill magistrates, afterwards of their punishments, and lastly of so many of their ciuill lawes, as I haue obserued needfull for the vnderstanding of *Tully*, and that principally in his Orations. For the more easie conceauing of all which I haue prefixed one Chapter of the *Roman* yeare, treating there, of the *Calends*, *Ides*, and *Nones*: the knowledge of which is needfull for that which followeth.

CAP.

Cap. 1.

De Anno & partibus eius.

INasmuch as there cannot be a full knowledge of the *Roman* assemblies, without some generall vnderstanding of the *Roman* yeare, and the generall distinctions of the *Roman* daies, it cannot bee but worth our labour in this short chapter, briefly to consider what may bee spoken therein. This word *Annus*, is so called *quasi Annulus*, because (as the Greeke word Ἐνιαυτὸς signifieth) ἐν ἑαυτῷ ἵεται, *id est, in se convertitur annus*: which was the reason, why the Egyptians in their mysticall cyphers (called *litera hieroglyphica*) did vse the picture of a serpent, hauing his taile in his mouth, to signifie an yeare. The time or space, of this yeare hath beene diuerse, according to the diuersitie of nations. [a] Some allowed no more daies to an yeare, then we doe to a month, whence that monthly space which the *Latines* called *Mensis* from [b] μήν, signifying the Moone, they called *Annum Lunarem*. Some allowed foure monehs, some six months, some tenne. And thus *Romulus* measured his yeare, counting the months either from the number of our fingers, or from the time that a woman goeth with child, or from the time that a widdow commonly mourned for her husbands death, or lastly from the multiplication of vnities which in a simple number doth not exceed ten.

a Vid. Plin. lib. 7. cap. 48.

b Paulus Mar. in Ovid. Fast. lib. 1.

Quod satis est vtero matris dum prodeat infans,
Hoc animo statuit temporis esse satis.
Per totidem menses à fuxere coniugis vxor
Sustinet in viduâ tristia signa domo. Ovid. Fast. lib. 1.
Annus erat, decimum cùm Luna receperat orbem,
Hic numerus magno tunc in honore fuit:
Seu quia tot digitis per quos numerare solemus,
Seu quia bis quino famina mense parit,

Seu

Seu quòd ad vſq; decem numero creſcente venimus,
Principium ſpatijs ſumitur inde novis. Ovid. Faſt. lib. 3

Thus *Romulus* his yeare contained of months ten; of daies 304. But after this *Numa* added two months,

At Numa nec Ianum, nec avitas præterit vmbras.
Menſibus antiquis addidit ille duos. Ovid. lib. 1. Faſt.

Numa,[c] or as ſome ſay, *Tarquinius Priſcus* perceauing that the months did not alwaies fall out alike every yeare; but ſometimes the ſame month would happen in the ſummer, ſometimes in the winter, thereupon after long ſtudy & many inſtructions from the *Grecians*, finding the reaſon of this confuſednesſe, he added vnto *Romulus* his yeare fiftie daies, ſo that the whole yeare afterward was divided into twelue months; becauſe the moone had finiſhed her courſe twelue times in that ſpace; beginning their yeare then at Ianuary: becauſe then in his iudgement was the fitteſt time to beginne the yeare, when the ſunne being fartheſt from vs, did beginne to turne his courſe, and to come vnto vs againe; which is about Ianuary, the ſunne being about the Tropicke of Capricorne. Afterward vpon a ſuperſtitious conceit of the odde number, *Numa* added one day more vnto Ianuary, ſo that whereas at the firſt *Numa* his yeare did agree with the *Grecian* yeare, both of them containing three hundred fiftie foure daies; Now the *Roman* yeare contained three hundred fiftie fiue daies, which computation falling out too ſhort for the true yeare by the ſpace of ten daies, and ſix houres yearly, it occaſioned euery eighth yeare in the interpoſition of 3 whole months, which they called their leap yeare:[d] This cõfuſednes afterward *Iulius Cæſar* by long ſtudy remedied, adding the odde ten daies vnto *Numa Pompilius* his yeare. And leaſt the odd ſix houres might at laſt breed diſorder in their computation, he appointed that every fourth yeare a whole day ſhould be inſerted, next after the three and twentieth of February; which inſerting they called *Intercalatio* from an old verbe *Intercalo*, and that day they called *Intercalarem*.

[c] Vid. Geor. Merulam in orat. pro Q. Ligario.

[d] G. Merula in orat. pro Q. Ligario.

Now the day following being the foure and twentieth of
[e] G. Merula in orat. pro Q. Ligar. Februarie, was alwaies the sixt of the Kalends of March,[e] & therefore becauſe of the interpoſition of that day, they called the leap yeare *Annum biſſextilem*, that is, the yeare where in there falled out two daies, which they called *Sext. Calend. Martij*. And the day thus interpoſed, was called *dies biſſextus*. This computation, which *Iulius Caſar* found out, wee haue embraced, & doe at this day follow, calling our yeare
[f] Roſin. ant. Rom. lib. 4. *Annum Iulianum*,[f] and *Annum magnum*, hauing relation to the monthly yeare called *Annus Lunaris*, and ſometimes this great yeare is called, *Annus vertens à vertendo*, becauſe it is
* Hubert. l. 3. epiſt. fam. 18. alwaies turning, and running on. * Moreouer wee muſt remember, that the Romans did begin their yeare at March; whence that month, which ſince hath beene called *Iulius* in the honour of *Iulius Caſar*, was by them called *Quintilis*, becauſe it was the 5 month: and that month, which ſince hath beene called *Auguſtus*, in the remembrance of *Auguſtus Caſar*, was by them called *Sextilis*, becauſe it was their ſixt month. Thus then the great yeare being diuided into twelue months, every month was diuided into three parts, *id eſt*, *Calendas*, *Nonas*, and *Idus*. The *Kalends* were ſo proper vnto the *Romans*, that [g] *Auguſtus Caſar*, when he purpoſed neuer
[g] Suet. Octav. Aug. c. 87. to doe what he was requeſted, was wont by way of proverb to ſay, that he would doe it *Ad Calendas Græcas*, that is to ſay in our Engliſh proverb, **At latter Lammas, never.** For the better vnderſtanding of which, I ſhall inſert three common verſes.

Principium menſis noſtri dixêre Calendas:
Sex Maius Nonas, October, Iulius, & Mars,
Quatuor at reliqui: tenet Idus quilibet octo.

That is, the firſt day of every month is called the Kalends of that month. The 2. 3. 4. 5. 6. and 7. of theſe foure months, May, October, Iuly, and March, were called the Nones of that month: but in all the other months the Nones contained but the 2. 3. 4. & 5 day: ſo that the fift day (for example

ſake

sake) of Ianuary was called *Nona Ianuaria*, or *Ianuarij*, the fourth *Pridie Nonarum*, or *Nonas Ian.* (For they vsed alwaies to say *Pridie Cal. Pridie Nonar.* and *Pridie Iduum*, insteed of *secundo Cal. Non. Id.*) The third day of Ianuarie, they called *tertium Nonarum, vel Nonas Ianuar.* the second day of Ianuary they called *quartum Nonarum, vel Nonas Ianuar.* After the Nones followed the Ides, which contained eight daies in every month, so that the 15 day of the foure aforesaid months, were called *Idus Maij*, *Idus Octob. Idus Iulij*, and *Idus Martij*. In all the other months, the 13th day was the Ides: as to proceed in Ianuarie, the thirteenth day was called *Idus Ianuar.* the twelfth *Pridie Iduum, vel Idus Ianuar.* The eleuenth *tertio Iduum*, or *Idus Ian.* the tenth *quarto Iduum, vel Idus Ian.* the ninth 5° *Id. Ian.* the eighth 6° *Id. Ian.* the seauenth 7° *Id. Ian.* the sixt 8° *Id. Ian.* After the Ides then followed the Kalends of the next month. As the fourteenth of Ianuarie was *decimo nono Calendarum*, or *Calendas Februar.*; the fifteenth *decimo octavo Calend. Febr.* the sixteenth *decimo septimo Cal. Feb. &c.* Where wee must note that as often as we vse *Pridie, tertio, quarto*, or any of those numerals with an accusatiue case, as *Pridie Calendas, &c.* the *Grammarians* say, that this preposition *Ante* is eclipsed; Againe every month had in its compasse three great markets, which because they were obserued euery ninth day, were called *Nundina*, and the latter of them being the greatest is called by *Athenaeus* τρίτη ἐκκλησία, which we may render *Trinundinum*, or *Trinum nundinum*. It followeth now that I should treat of the daies, which are the lesser parts of the yeare: where before we proceed, wee will consider the parts, which the *Romans* divided their day into.

Dies Civilis continet

- *Lucē, cuius partes sunt*
  - *Diluculum.* The breake of day.
  - *Mane.* The full morning.
  - *Ad meridiem.* The fore-noone.
  - *Meridies, quasi Medidies.* Mid-day, or *quasi Merus dies.* Perfect day, Noone.
  - *De meridie.* After noone.
  - *Solis occasus.* Sunne setting.
- *Noctem, cuius partes sunt*
  - *Crepusculum.* The duske of the evening.
  - *Prima fax*, Candle-tining.
  - *Vesper.* The night.
  - *Concubium.* Bed time.
  - *Nox intempesta.* The first sleepe.
  - *Ad mediam noctem*, Towards mid-night.
  - *Media nox.* Mid-night.
  - *De media nocte.* A little after mid-night.
  - *Gallicinium.* Cock-crowing.
  - *Conticinium.* All the time from cock-crowing to the breake of day.

The day and night againe were each of them divided into *primam, secundam, tertiam, & quartam vigiliam*, every watch containing three houres. The first of the night began at sixe of the clocke in the evening, and the fourth ended at six of the clock in the morning. g These watches were distinguished by seuerall notes and sounds of Cornets, or Trumpets, that by the distinction and diuersitie thereof, it might easily be knowne what watch was sounded. Moreouer we must vnderstand that the *Romans*, vpon a superstitious conceit, & observation of misfortunes and evill events falling out on some daies, and more happy successe vpon others, haue called the former sort of daies *Atros dies*, or *dies postriduanos, & Ægyptiacos*: ἀποφράδιας *Græci nuncupant*, *perinde ac si nefandos dicas*. The reason why they were called *Postriduani* was because they thought *Dies postridie Calendas, Nonas, & Idus id est*, The next day after the Calends, Nones, & Ides, of every month to be vnfortunate; and the latter sort they called

g Alex. Gen. lib. 1. cap. 12.

Albos

Albos dies,[h] borrowing the names from the *Scythians*, who vſed to chalk out the fortunate daies in their Kalenders with white characters, whence *Horace* ſaith,

Creſſa non careat pulchra dies notâ.

Other-ſome, as their vntortunate and vnluckie daies, were noted with a coale or black character, according to that,

Nigro carbone notatus.

Againe their Kalender diſtinguiſhed ſome daies for Holy-daies, which they called *Dies feſtos*, feſtiuall daies, or *dies Feriatos, & Ferias*, Holy-daies, [i] becauſe they did vpon ſuch daies *Ferire victimas, id eſt*, offer vp ſacrifices. Others were diſtinguiſhed for working daies, which they called *Profeſtos quaſi procul à feſtis.* The third diſtinction was of halfe holy-daies, which *ab intercidendo*, they called *Dies interciſos*, as it were daies cut aſunder: the one part of them being allotted for worldly buſineſſes, the other for holy and religious exercíſes.[k] Theſe *feria* were either *priuata*, and ſo they belonged ſometime to whole families, as *Familiæ Claudiæ*, *Æmiliæ*, *Iuliæ, &c.* ſometimes to private perſons, as every one his birth day, particular expiations, &c. or elſe they were *Publicæ*, ſuch as the whole common-wealth did obſerue: and they were of two ſorts, the one called *Anniuerſariæ*, which were alwaies to be kept on a certaine day, [l] and therevpon they were called *feriæ ſtatiuæ*; the other *conceptiuæ*, which were arbitrary, and ſolemniſed vpon ſuch daies as the Magiſtrats and Prieſts thought moſt expedient, whereof the *Latinæ Feriæ* were chiefe: which *Latinæ Feriæ* were kept on mount *Albanus* to *Iupiter Latiar*, for the preſeruation of all the Latine people in league and confederacie with the *Romanes*, and were ſolemniſed in memorie of the truce between thoſe two nations. Thoſe *Feriæ* which were called [m] *Imperatiuæ*, and [n] *Indictiuæ*, becauſe the *Conſul*, *Prætor*, or chiefe Pontifie, according to their pleaſure *imperabant, & indicebant has, id eſt*, commanded them, may in my opinion bee contained vnder that member of *Feriæ conceptiuæ*, in reſpect of the vncertainty,

[h] Vid. Eraſm. Adag. vnioge ſignare.

[i] Aſcenſius in epiſt. 3. illuſt. vir. lib. 2.

[k] Roſin. ant. lib. 4. c. 3.

[l] Alex. Gen. dier. lib. 5. c. 7.

[m] Alex. Gen. dier. lib. 5. c. 7.

[n] Serv. Æneid. lib. 11.

certainetie of them. Another diſtinction of daies is found in the Roman Kalender, to haue beene in *Faſtos*, whole court or leet-daies; *Ex parte Faſtos*, Halfe court daies; *Ne faſtos*, Non-leet daies; though this word *Nefaſtus* be often expoũded vnluckie, as in that of [o] *Horace* touching the tree, *Ille & nefaſto te poſuit die*, that is, Hee planted thee in an vnhappy time. Theſe daies were ſo called *à fando*, from ſpeaking; becauſe vpon thoſe daies which were *Faſti*, the *Prætor*, or L. chiefe Iuſtice might lawfully keep court and adminiſter iuſtice, which was not done without the ſpeaking of theſe three words, *Do, Dico*, and *Addico*; [p] *Dabat actionem; dicebat ius*; *Addicebat tam res, quàm homines*. Where by the way we muſt note, that ſometimes theſe court daies were alſo called *dies comitiales*, becauſe that [q] vpon every ſuch day which was noted in the Kalender for a comitiall day, if the publique aſſemblies were not held, it was lawfull to keep court: whence not only *comitialis dies* doth ſignifie a law day, but *comitialis homo* alſo doth ſignifie a wrangler in the law, or a litigious perſon.

[o] Carminum lib. 2. Ode 13.

[p] Ioach. Camerar. pro Flacco.

[q] Berſman. in ſuis annot. in Rom. Calend. ad finem Ov. Faſt.

Cap. 2.

De comitijs, idq; Calatis præcipuè, de Rogationibus, & antiquâ ſcribendi ratione.

EVery aſſembly of all the *Romane* people being called together by a lawfull magiſtrate to determine any matter by way of giuing voices, is *à coeundo* tearmed *Comitia* ſimply, without the adiection of any other word; or *Comitia calata*, that is, aſſemblies called together, from καλέω or the obſolete latine verbe *calo*, which ſignifieth to call: though afterward thoſe aſſemblies onely, which were held either for the inauguring of ſome pontify, ſome *Augur*, ſome *Flamen*, or him that was called *Rex ſacrorum*, or for the making of their wills & teſtaments, were called *Calata comitia*.

Whence

Whence the will that was made in these assemblies was called *Testamentum calatis comitijs*. This kind of assembly is sometimes called *comitia* [a] *pontificia*, and *comitia sacerdotum*, in that sense as others are called *Consularia*, or *Ædilitia comitia*; namely because the pontifies in these, as the *Consuls*, and *Ædiles plebis* in the others, were chosen. There followeth three other kinds of assemblies: for either the people did assemble themselues by parishes, called *Curia*; or by hundredths, called *Centuria*; or by wards, called *Tribus*. The first sort of assemblies they called *comitia Curiata*, the second *comitia Centuriata*, the last *comitia Tributa*. [b] Where by the way we must note, that that thing which was determined by the *maior* part in any parish, hundreth, or ward, was said to be determined by that whole parish, hundreth, or ward, and that which was determined by the *maior* part of parishes, hundreths, or wards, was said to be approued *comitiis Curiatis, Centuriatis, vel tributis*. Secondly we must note, that neither children vntill they were seuenteene yeares old, nor old men, after the sixtieth yeare of their age, were allowed to suffrage in these assemblies, whence arose that adage *Sexagenarij de ponte deijciendi*: [c] & old men were hence called *Deponani*, for the explication of which see before. Here before wee speake of those three seuerall kindes of assemblies, wee will consider the manner of their proceedings in propounding cases vnto the assemblies. [d] The custome was at first, that the *Romans* should bestow their suffrages *Viva voce*, but afterward that every one might with freer liberty giue his voice, they commanded certain wooden tables, wherein the names of those that stood for offices were written, to be carried about, euery suffrager receiuing so many tables, as there were suitors: then did the people giue back that table with whom they would suffrage. But if a law were to be enacted, then every suffrager receaued two tables, in the one of which were written these two great letters V.R; in the other was written a great *Roman* A. Those who deliuered these tables vnto the

[a] Ioan. Tisslinus in orat. pro Cœlio.

[b] Sigon. de iure Rom. lib. 1. cap. 17.

[c] *Pars putat vt ferrent iuuenes suffragia soli: Pontibus infirmos præcipitasse senes.* Ov. Fast.

[d] Philip. Beroaldus in orat. Phil. 11.

the people; did ſtād at the lower end of thoſe bridges (which were erected vp for the ſuffrages to aſcend vnto the *ouilia*) whence they were called *à diribendo, id eſt*, from diſtributing *Diribitores*. At the other end of the bridges were placed certaine cheſts or little coffers, into which the ſuffragers which did approue the law did caſt in the firſt table; thoſe that diſliked it, did caſt in the ſecond: for by thoſe two letters V. R. which were written in the firſt, is meant *Vti Rogas*. i. Be it as thou haſt asked, this word *fiat* being vnderſtood. By A in the ſecond table was meant *Antiquo, id eſt*, I forbid it, the word ſignifying as much as *antiquū volo*; I like the old law, I loue no innouations. The tables being thus caſt into the cheſts, certaine men, appointed for that purpoſe in manner of Scru-
[c] Plin. l. 33. c. 2. tators (they called them *Cuſtodes*, & ſometimes [c] *Nongenti*) did take the tables out of the cheſts, and ſo number the voices by making ſo many points or pricks in a void table, as they found tables alike: which kind of accoūting occaſioned theſe and the like phraſes; *Suffragiorum punctà non tulit ſeptem*, and *Omne tulit punctum*; where *punctum* is vſed for *ſuffragium*. The voices being thus numbred, it was pronounced by the common crier what was decreed. Becauſe the vſe of thoſe tables is now growne quite out of vſe, I ſhall make bold to inſert that, which with much labour I haue collected out of ſeuerall autors touching theſe tables. It is certain that a long time the vſe of paper was not knowne, whence men were wont to write ſometimes vpon the inward rindes of trees, called in Latine *Libri* (ſo that to this day wee call our bookes *Libri*, becauſe in old time they were made of thoſe rindes of trees) ſometimes they did write in great leaues made of that ruſh *Papyrus*, growing in Ægypt, from which we haue deriued our Engliſh word Paper, & the latin word *Papyrus*, now ſignifying our writing paper. Shortly after the inventiō of this Ægyptian paper, *Ptolomy* the king of Ægypt
[a] Plin. lib. 13. cap. 11. reſtrained the common making thereof, becauſe of the great [a] emulation betweene him and *Eumenes* King of *Pergamus* concer-

concerning their l braries; not long after therefore *Eumenes* hauing found out the making of parchment, he made vſe thereof in writing, and called it from the place *Pergamena*. At this time did the *Romans* vſe to write in tables of wood, couered with wax, called in latine *cerata tabula*. They wrote their wills and teſtaments in tables, [b] *Hinc ſecundum & contra tabulas bonorum poſſeſſio*; The poſſeſſion of goods either according or againſt the teſtator his will. Becauſe of the wax wherewith theſe tables were couered, *cera* is often vſed in the ſame ſenſe, as *Hæredes primæ ceræ, id eſt, primæ tabulæ, & in primo gradu inſtituti*; by which words I thinke are vnderſtood ſuch heires as [c] *Alexander* calleth *Hæredes ex toto aſſe*, that is, heires to the maine inheritance, oppoſing them to thoſe which did receiue only legacies, whom he calleth there, *Hæredes in imâ cerâ, ſecundos hæredes, & legatarios*. [d] *Syluius* not vpon improbable grounds doth thinke, that *Tully* doth vnderſtand by *Hæredes ſecundi*, ſuch heires as were nominated to ſucceede the chiefe heire or heires if they died. They wrote their accounts in tables; hence *tabula accepti & expenſi*, ſignifying reckoning bookes. Theſe count-books were of [e] two ſorts, ſome monthly without order or method called *Adverſaria. Quod adverſa parte etiam ſcriptis implerentur.* Others perpetuall, being the tranſcript of the forme, called *Tabula accepti & expenſi*. They wrote their ſtatutes alſo in tables, whence *Tabula publica*, are engliſhed ſtatute books, or rather books of record. Thoſe writings or inſtruments which the Senate or Emperour cauſed to be hanged vp in the market place, to releaſe and diſcharge any banckrupt from paying his debts, they termed [f] *tabulas nouas*, we may engliſh them letters of protection. They wrote their inuentories of goods ſet at ſale in tables, calling them *tabulas auctionarias*: yea they indited their epiſtles and common letters in tables; in ſomuch that *tabella* are expounded miſſiue letters, and *tabellarius* which properly ſignifieth a carrier of tables, is now vſed to ſignify a letter carrier; yet they [g] ſometimes

[b] P. Pellitar. in or at. pro A. Cæcinna.

[c] Alex. Gen. dier. l. 1. c. 1.

[d] Fr. Siluius. pro Cluentio.

[e] Cœl. Rhod. lib. 12. cap. 21.

[f] Fr. Syly. in. orat. Catalin.

[g] Suidas in voce μίλυβδος.

times wrought alſo in plates of lead, εἰς ἐλασμὸς μολύβδου γεγράφθαι; And thus we may vnderſtand what [h] *Suetonius* meaneth by *charta plumbea*: concerning all theſe, *Plury* writeth excellently: before the vſe and making of paper was inuented, men wrote at firſt in palme tree leaues, afterwards in the rindes of certaine trees, afterward publike monuments were recorded in volumes or roles of lead, at laſt priuate matters on fine linnen or wax. [k] The manner how they ſealed their letters was thus: they did binde another table vnto that wherein the inditment was, with ſome ſtrong thread, ſealing the knot of that thread with wax, whence *Cicero* ſaith *Linum incidimus*, that is, we opened the letters, hence alſo is that of *Plautus*, *Cedo tu ceram ac linum: age, obliga, obſigna citò*, [l] The impreſſion was commonly their owne image, or the image of ſome of their anceſtors. The matter on which the impreſſion was made, was not alwaies waxe, but ſometimes a kinde of tempered chaulke, which occaſioned that phraſe of Tullies, [m] *Signum ille animaduertit in cretula.* [n] Laſtly they wrote their books in tables, whence from them we do at this day call our books *codices à caudicibus*, *caudex* ſignifying properly the truncke or ſtocke of a tree, whereof theſe tables or books were made. We muſt note withall that they wrote not with inke or quille, but with an inſtrument of ſteele; or yron, hauing [o] a ſharp point at the one end, and being broad, yet keene and well edged at the other, with the ſharpe point they did write what they pleaſed, with the broad end they did ſcrape out what they had written: Whence *Stylum inuertere* is to ſay and vnſay a thing, to turne his punch the wrong end downeward, as it were to ſcrape out that which one had formerly written. The Romans did afterward vſe inſteed thereof, an inſtrument made of bone, prohibiting the vſe of yron ones, as [p] *Iſidore* noteth by that law, *Cerâ ſorore cædito*. And as we vſe this word *Manus* to ſignify the writing it ſelfe, according to that of [q] Tully, *cognouit manum, & ſignum ſuum*: ſo

[h] Sueton. Nero. 10.
[i] Plin. lib. 13. cap. 11.
[k] Fr. Sylv. in orat. Catil. 3.
[l] Iuſt. Lipſ. epiſtol. inſt. c. 4.
[m] Cic. 4. in Verrem.
[n] P. Pellitar. in orat. pro A. Cæcinna.
[o] Vid. Eraſm. Adag.
[p] Herman. Hugo. de. prima ſcrib. orig. cap. 9.
[q] Cic. orat. cont. Catil.

ſo in the like ſenſe we vſe this word *Stylus*, to ſignifie the peculiar tenure or ſtraine of phraſe, which any man obſerueth in the compoſing of an oration, epiſtle, or ſuch like; in which ſenſe Tully vſeth it, as the antitheton to *gladius*, in that ſpeech of his, *Cedat forum caſtris, otium militiæ, ſtylus gladio*, though in another place he vſeth it to ſignify, if not a ſword, yet a pocket dagger, as *Etſi meum ille ſtylus fuiſſet*; [f] in which place *Stylus* doth ſignifie as much as *pugio*. And here ſeeing we are fallen into the manner and cuſtome of auncient writings, it will not be amiſſe to note that vſually at the end of their books they printed a little marke, which they tearmed *Coronis*. Thoſe that interpret *Ariſtophanes* deſcribe that marke thus, ſaying that it is [t] *Linea brevis ab inferiore parte flexa*. All agree in this, that it was ſome common and known daſh, vſually ſubioyned to the end of books: [u] others are of opinion that the ancient *Romans* did in like manner adorne the frontiſpice, or beginning of their books, with the picture of an halfe moone, which obſeruation giueth light not only to that adage ἀπὸ τῆς ἀρχῆς μέχρις τῆς κορωνίδος, From the beginning to the end. But alſo that of *Martial lib. 10.*

Cic. orat. pro Muræn. [f] Mic. Toxita. in orat. Phil. 2.

[t] Cœl. Rhod. lib. 15. cap. 20.

[u] Turn. adv. lib. 22. cap. 10.

Si nimius videor, ſeraq; coronide longus
Eſſe liber, legito pauca, libellus ero.

And of *Ovid.*

Candida nec nigra cornua fronte geras.

For in *Turnebus* his iudgement thoſe halfe moones prefixed, were called *Cornua*. Howſoeuer this may bee true touching the daſh, or character at the ende of a booke, and that it was tearmed *Coronis*: yet I doubt whether any ſuch halfe moone was vſually prefixed in the beginning of bookes, or whether ſuch an halfe moone were denoted by the Latine word *Cornu*: more probable is his opinion, [x] who treating of this very matter, ſaith, that in old time a whole booke was written in one continued page, neither did they then cut their books into many leaues, and binde them vp in that manner as we doe; but that one entire page in which alone the whole book was

[x] Pier. hierog. lib. 34

written, was wont to be roled vp vpon a ſtaffe faſtned at the end thereof, in manner as many large mappes are now adaies with vs. Hence it is *à voluendo*, that we call our books, *Volumina*, Volumes: this ſtaffe on which the booke is roled, was called *Vmbilicus*, the ſame word ſignifieth a nauill, which becauſe it is the middle part, and as it were the centre of a mans body, hence approued authors vſe the word to ſignifie the middle of any thing; and happily that name was firſt giuen this ſtaffe, becauſe when the booke was roled vp, the ſtaffe was the middle thereof: howſoeuer becauſe it was faſtned alwaies at the end of the page, hence *Vmbilicus*, eſpecially when it is applied to a booke, ſignifieth the end thereof: as *Horace*, *Ad vmbilicum ducere*; to bring to an end: the two pummels, or ends of this ſtaffe, which did iutt out & appeare on each ſide of the volume, they called *Cornua*; & they were wont to be tipt with ſiluer, or gold, or otherwiſe adorned. The title which was the beginning of euery booke, was tearmed *frons*. This ſeemeth more probable then that of *Turnebus* his, and giueth greater light to that of *Ouid*,

Candida nec nigra cornua fronte geras.

Now that we may proceed to the matter whence we haue digreſſed, it remaineth that we ſhould declare the manner how they enacted their lawes. All the *Romans*, though free Cittizens had not power and authority of preferring the lawe, but onely eight of their Magiſtrats, which they called *Magiſtratus maiores*: namely the *Prætor*, the *Conſuls*, the *Dictator*, the *Interrex*, the *Decemviri*, the *Military Tribunes*, the *Kings* & the *triumviri*, vnto theſe eight was added one of thoſe whō they entitled *Magiſtratus minores*, namely the *Tribunus plebis*. If any of theſe Magiſtrats thought it fit to preferre a law, then did hee firſt write it downe at home, and conſult with ſome lawyer, whether or no it might bee for the good of the Commonwealth, whether it ſhould not weaken any former law, or whether it was not formerly included in ſome other law, &c. Theſe and many other cautions were to be conſi-

dered

dered, before it was preferred, yea some would haue the approbation of the whole Senate after the aduise of their lawyer, though diuers times that hath beene omitted. And the lawyer alone allowing it, the law was hanged vp publikely in the market place for the space of three market daies, which kinde of publishing the law was tearmed, *Legis promulgatio, quasi provulgatio*, during which time of promulgation, reasons were alleaged *pro & con* by the spectators: and all the people had so much time to consult of the conueniency thereof, and euery one vpon iust reason, had free liberty to admonish him that preferred the law, either to amend it, or to surcease the proposall. After the third Market day (for vnlesse it were vpon an extraordinary occasion, no assembly might be called vpon a market-day, because of the country folkes businesses, they also hauing freedome of suffraging) the Magistrate did conuocate, the people to that place where the law was to be proposed: there the Towne-clarke, or Notary reading the law, the common cryer proclaimed it, then did he which promulged it, make an Oration vnto the people, perswading them that it might passe. Sometimes others of his friends would second him with Orations in his behalfe, as likewise others that disliked it, would by orations dissuade the people, shewing the inconuenience thereof. After the orations had been ended, an vrne or pitcher was brought vnto certaine Priests there present, into which were cast the names of the tribes, if the *Comitia* were *Tributa*; or of the centuries, if they were *centuriata*; or of the parishes, if *curiata*: then *sortibus aquatis*, that is, the lots being shakē together they drew their lotts; and that tribe or centurie whose name was first drawne, was called *Tribus, vel centuria prærogatiua, à prærogando*, because they were first asked their voices. *Turnebus*, interpreting that of *Tully, Maiores voluerunt prærogatiuam omen esse iustorum comitiorum*, interpretes it; That the *Romanes* did so depend vpon the prerogatiue Centurie, that they would alwaies declare him Consul that was cho-

ſen by them. *Turneb. adv. l.* 5, *c.* 23. That *Curia* vpon which the firſt lot fell, was called [q] *Principium*, becauſe that *Curia* did firſt ſuffrage Thoſe Tribes vpon whom the other lottes fell; namely the ſecond, third, fourth, &c. were tearmed *Tribus Iure vocata*. From this diſtinction it is, that ſuch a man as hath the voices of the prerogatiue Tribe, or Centurie, is ſaid to haue [r] *Omen prærogatiuum*: which good fortune whoſoeuer could attaine vnto, was in great hope of obtaining the other voices of the *Iure vocata*; for they neuer, or very ſeldome would ſwarue from the determination of the prerogatiue Tribe, or Centurie. Whiles the people were buſie in their lotterie, in the meane time if any [s] Tribune of the Commons woulp *intercedere*, that is, forbid the proceeding, he might be heard, and the whole aſſembly thereupon ſhould bee diſmiſſed: likewiſe they were diſmiſſed if either he which firſt promulged the law did alter his opinion, or if the *Conſul* commanded ſupplications to be offered vp in the behalfe of their Emperour, or any of thoſe holy daies called *Feria Latina*, *vel Imperatoria* to bee obſerued vpon that day; or if any of the people aſſembled were taken with the falling ſickneſſe (by reaſon whereof that diſeaſe is called by the [t] Phyſitians at this day *Morbus comitialis*:) Laſtly, the aſſemblies were diſſolued by reaſon of the ſouthſayings, which kinde of diſſolution was cauſed either by the ciuill Magiſtrate his obſeruing of ſignes and tokens in the heauen, and that was called *Spectio*, and ſometimes *de cælo obſeruatio*; the very act of this obſeruation, though no vnlucky token did appeare diſſolued the aſſembly: or elſe it was cauſed by the *Augures*, and ciuill magiſtrate promiſcuouſly, whenſoeuer any ciuill token was ſeene or heard, either by the Magiſtrate, or *Augur* (amongſt which thunder was alwaies counted the vnluckyeſt) at which time the aſſembles were in like manner to bee diſſolued: this manner of diſſolution was tearmed *obnunciatio*, or *Nunciatio*. *Obnunciabat, qui contra auſpicia aliquid fieri nunciabat.* Both theſe kindes are eaſily to be collected out of

[q] Roſin. ant. lib. 6. cap. 7.

[r] Cic. pro Muræn.

[s] Huber. in lib. 1. Cic. ep. fam. 2.

[t] Fuchſii inſt. medicin. l. 3. ſect. 1.

[u] Stadius in Flor. l. 3. c. 7.

of that ſpeech in *Tully*, [x] *Nos Augures nunciationem ſolam habemus, Conſules & reliqui magiſtratus etiam ſpectionem.* Here we may fitly in way of concluſion vnto this tract, adde a iuſt difference to be obſerued betweene theſe phraſes, *Promulgare, Rogare: Ferre, & Figere legem. Promulgare legem*, was to hang vp a law not yet asked, to the publike view of the people, to be examined by them touching the conueniency thereof. *Rogare legem* was to vſe a certaine oration vnto the people, to perſwade the conueniency of the law, which Oration becauſe it began with this forme of words, *Velitis, iubeatisne Quirites?* that is, O yee *Romans*, is it your will and pleaſure that this law ſhall paſſe or no? Hence was it tearmed *legis rogatio. Ferre legem*, was when the law had beene approued of by the people, then to write it downe vpon record, and ſo to lay it vp into the treaſure-houſe; [y] *Cùm approbata fuiſſet lex, in æs incidebatur, & in ærario condebatur, & tunc demum lata dicebatur.* Laſtly *Figere legem*, was to publiſh the law after it had beene approued and recorded, [z] by hanging it vp in tables of braſſe in their market-places, or at their church dores: Hence it is that wee vſe [a] *Tabulam figere* in the ſame ſenſe, namely to enact or eſtabliſh a law, and *Refigere legem*, to diſproue or cancell a lawe. [b] And that which was determined *Comitijs curiatis*, was tearmed *lex curiata*; that which was *Comitiis centuriatis*, *lex centuriata*, that which was *Comitiis tributis*, was not cal'ed a lawe, but *Plebiſcitum.*

x Cic. orat. Philip. 2.

y Fr. Maturantius in Phil. 1.

z Corn. Tacit. annal. lib. 11.

a Fr. Matur. in Philip. 12.

b Sig. de Iure. prou. lib. 3. c. 1.

Cap. 3.

De Comitiis Curiatis.

Comitia Curiata were thoſe, wherein the *Romane* people being diuided into thirty pariſhes did giue their ſuffrages: They were ſo called from *Curia* ſignifying a pariſh. And vntill *Seruius Hoſtilius* his time, who did firſt inſtitute the *comitia centuriata*, all things which were determined

mined by the ſuffrages of the people, were determined by theſe *curiata comitia*: But after the other two ſorts of aſſemblies had beene eſtabliſhed, theſe *curiata* were vſed only either for the enacting of ſome particular lawes, or for the creating of ſome certaine prieſts, called *Flamines*. For the better vnderſtanding hereof we muſt remember that though at firſt theſe thirty pariſhes were parts of the three Tribes (each tribe being diuided into ten pariſhes,) yet in proceſſe of time the increaſe of the *Romane* people was ſuch, that a great part of the *Romane* fields were filled with buildings and places of habitation, in ſomuch that the tribes of the *Romans* were encreaſed to thirty fiue: but the pariſhes (becauſe none that dwelt out of the city were tied to the rites and ceremonies of the *Romane* religion) did not encreaſe, ſo that the pariſhes did not alwaies remaine parts of the tribes. Hence it followeth that all the *Romans* had not power to ſuffrage in theſe aſſemblies, but thoſe alone, who dwelt within the eitty: for no other could be of any pariſh. The place where theſe aſſemblies were held, was the great hall of Iuſtice, called from theſe aſſemblies, *Comitium*. Before theſe aſſemblies were held, it was required that ſome lawfull magiſtrate for ſome competent time before hand ſhould ſolemly proclaime them, and the thirty ſeriants (each pariſh hauing for that purpoſe his ſeriant) ſhould call the people together; as likewiſe three *Augures*, or at leaſt one ſhould be preſent to aſſure them by their obſeruations, either of the fauour, or diſpleaſure of the Gods. Vpon theſe premiſes the matter was propoſed vnto the people, who if they liked it, then they proceeded vnto their election; if otherwiſe they diſliked it, then did the *Tribunus plebis intercedere*, that is, forbid their proceedings: wherevpon their aſſemblies were preſently diſſolued.

CAP.

Cap. 4.

De Comitijs Centuriatis.

AS thoſe former aſſemblies were called *Curiata à curijs*, ſo were theſe called *Centuriata à Centurijs*. *Seruius Tullius* cauſed generall valuation of every citizens eſtate throughout *Rome*, to be taken vpon record, together with their ages: and according to their eſtates & age, he diuided the *Romans* into ſix great armies, or bands, which he called *Claſſes*; though in truth there were but fiue of ſpeciall note: the ſixt contained none but the poorer ſort, and thoſe of no worth or eſteeme. The valuation of thoſe in the firſt *Claſſis* was not vnder two hundred pounds, and they alone by way of excellency were tearmed *Claſſici*: and hence figuratiuely are our beſt and worthieſt authors, called *Claſſici ſcriptores*, Claſſicall authors. [d] All the others, though they were enrolled in the ſecond, third, or any other *Claſſis*, yet were they ſaid to be *Infra claſſem*. The valuation of the ſecond band was not vnder ſeauen ſcore pounds. The valuation of the third was not ſo little as an hundred pounds: of the fourth not leſſe then forty pounds; of the fift not leſſe thē twentie fiue pounds. The ſixt contained the poorer ſort, whom *Horace* calleth *Tennis cenſus homines*, men of ſmall ſubſtance; and alſo they were called *Proletarij, à munere officioq; prolis edendæ*, as if the only good that they did to the common weal, were in begetting of children: and ſometimes they were called *Capite-cenſi*, that is ſuch as paid very little or nothing at all towards ſubſidies, but only they were regiſtred amōg the citizens, as it appeareth by [e] *Sigonius*. Theſe ſix great bands or armies were ſubdiuided into hundreths, called in Latine *Centuriæ*. The firſt *Claſſis* contained foure-ſcore centuries of foot men, and eighteene of horſemen: the ſecond contained twentie centuries of footmen, and two of

[d] A. Gel. lib. 7. cap. 13.

[e] Sig. de iure Rom. lib. 1. c. 4.

workmen, which followed after to make military engins & weapons: the third alſo, as likewiſe the fourth contained 20 centuries of footmen, but to the fourth were added two other centuries of Trumpeters, Drummers, & ſuch like, who vpon iuſt occaſion did *Claſſicum canere*, ſound the alarme, & vpon iuſt occaſion did againe *receptui canere*, ſound the retrait: the fifth *Claſſis* contained thirtie centuries of footmen: the ſixt, or laſt *Claſſes* contained one centurie; ſo that in all the ſix *Claſſis* were contained one hundred foureſcore and thirteene centuries. Where we muſt note that all the centuries of footmen did conſiſt the one halfe in every *Claſſis* of the younger ſort, who were to make warre abroad vpon the enimies; the other halfe of old men, who remained at home for the ſafety of the citty. All that hath beene hitherto ſpokē of theſe *Centuriata comitia*, may be collected out of *Sigonius* in the place aboue quoted. The chiefe commander of euery cēturie was called *Centurio*; the rod, or tip-ſtaffe, wherewith he did ſtrike his ſouldiers to keepe them in aray, was called by *Pliny*, *Centurionum vitis*. So then we may perceaue, that thoſe *Centuriata comitia* were thoſe, wherin the people did giue their voices by centuries, or hundreds. Now the centuries did not conſiſt of thoſe alone which had their places of habitation at *Rome*, but of certaine *Municipall* ſtates alſo, & ſuch colonies or other ſtates, that could [d] *Plenum civitatis ius cum iure ſuffragij adipiſci*. [e] Now the cuſtome in old time was, that all theſe centuries ſhould march in their armour after the Magiſtrate which aſſembled them, into the *Campus Martius*, there to giue their voices. But this cuſtome continued not long, for thereby they did diſarme the citie, & giue their enimies (if any ſhould aſſaile them in time of their aſſemblies) the greater advantage: for their greater ſecurity thereof, they appointed a flagge to be hanged out vpon the mount *Ianiculus*, ſome few armed men ſtanding there in watch and ward for the ſafeguard of the citty: and when the aſſembly was to be diſſolued, then did the watch depart, and the

d Roſin. ant. lib. 6. cap. 10.
e Roſin. antiq. Rom. l. 6. c. 16.

the flag was taken down: neither could any thing after that be determined; but if they continued their aſſemblies, then did they proceed to the giuing of their voices, in old time thus. Thoſe centuries of the firſt *Claſſis* being the wealthier had the prerogatiue of ſuffraging firſt, and becauſe this firſt *Claſſis* contained more centuries then all the reſt, therefore, if they could agree among themſelues, the other centuries were neuer asked their voices. This kind of ſuffraging being ſomewhat partiall, in as much as the richer & wealthier being placed in the firſt *Claſſis*, did ouerſway the elections againſt the poorer ſort of people; thence did the after ages appoint that that century ſhould haue the prerogatiue of ſuffaging firſt, vpon whom the lot fel. The other centuries were all called [f] *Centuria Iurevocatæ*, & did giue their voices not by lots (as the *Tribus Iurevocata* did) but the elder and wealthier centuries did ſuffrage next after the prerogatiue century accordingly as their place required.

[f] Roſin. antiq. Rom. l. 6. c. 20.

Cap. 5.

De Comitijs Tributis.

FOR the better vnderſtanding of theſe aſſemblies by Tribes, or wardes, it will be needful firſt to learne, that this word *Tribus* in this place doth ſignifie a certaine region, ward, or locall place of the citty, or the fields belonging therevnto according to that, [g] *Tributa comitia erant cùm ex regionibus & locis ſuffragabantur.* It was ſo called either *à tributo dando*, euery ſeuerall region or quarter paying ſuch a tribute; or *quia primò tres tantùm fuerunt*, the whole citie being at firſt diuided only into three regions, or wards, each nationall tribe hauing his ſeuerall region or local tribe to dwell in. The firſt national tribe called *Ramnenſes*, did inhabit the mount *Palatine*, and the mount *Cœlius*, and thoſe two hills made the firſt locall tribe. The ſecond nationall

[g] A. Gel. l. 15. cap. 27.

tribe called *Tatienſes*, did inhabit the *Capitoll*, and the *Quirinall* mountaine, which two mountaines made the ſecond locall tribe. The third nationall tribe did inhabite the plaine betweene the *Capitoll* and the *Palatine* hill, and that plaine was called the third locall tribe. Of theſe tribes more is ſpoken in the firſt diuiſion of the Roman people. Only here we muſt note thus much, that in proceſſe of time after the cittie was enlarged, and the number of Roman citizens increaſed, theſe locall tribes were alſo augmented, ſo that they amounted at the laſt to the number of 35. ſome of them being called *Vrbanæ*, others *Ruſticæ*; [h] *Vrbanæ ab vrbis regionibus, Ruſticæ ab agri partibus erant nuncupatæ.* And of theſe two ſorts the *Tribus ruſticæ* were accoũted the more honorable. Moreouer we muſt remember, that a man might be reputed of this or that tribe, although he had no place or habitation therein. Concerning the place where theſe *Tributa comitia* were had, ſometimes they fell out to be in the *Campus Martius*; ſometimes in their great hall of iuſtice called *Comitium*; ſometimes in the *Capitoll*; many times in other places, according to the diſcretion of the Magiſtrate which cauſed theſe aſſemblies.

[h] Sig. de iure Rom. l. 1. c. 3.

Cap. 6.

De Candidatis.

IT ſhall not be impertinent to annex ſome neceſſary obſeruations touching the *Romane* petitors or ſuiters for bearing office: where we wil obſerue theſe three phraſes *ambire magiſtratum, inire magiſtratum*, and *abire magiſtratu.* The firſt ſignifieth, to ſue for an office; the ſecond, to enter into the office: the third to depart out of the office. Again the differẽce of theſe phraſes, *Conficere legitima ſuffragia, & Explere ſuffragia.* [i] The firſt ſignifieth to haue ſo many voices as the law doth require. The ſecond ſignifieth to haue more voices

[i] Roſin. ant. Rom. l. 2. c. 6.

voices then any other competitour, but not so many as the law requireth.

These persons were tearmed *Candidati*, *à togâ candidâ*, from the white gowne which they did weare, as appeareth more at large, where we haue spoken *De Romana toga*. That they might the easier procure the good will of the people, these foure things were expected from them. First, *Nomenclatio*, the saluting of euery citizen by his name; for the better discharge of which, they had a certaine follower, which should by way of prompting, tell euery citizens name as he passed by, and hence this prompter was sometimes called [a] *Nomenclator*, which word doth properly signifie a cõmon crier in a court of Iustice, such as call men to their appearance, whence they had their name from *Nomen & calo*, an old latin word to call; sometimes [b] *Monitor*; sometimes *Fartor, ab infarciendo in aures*. Secondly, *Blanditia*, that is, a friendly compellation by the addition of some complementall name, as well met friend, brother, father, &c. Thirdly, *Assiduitas*, that is, an hot canuasing, or soliciting men without intermission. Lastly, *Benignitas*, a bountifull, or liberall largesse, or dole of mony called *Congiarium*, from the measure *Congius* containing a gallon, because their [l] dole was at the first made of oyle or wine distributed in those measures. Howbeit κατ' ἐξοχὴν any dole, gift, or largesse in mony, or otherwise is called *congiarium*. The distributers of this dole were called [m] *diuisores* & [n] *sequestres*, although sometimes *sequester* signified a briber or corrupter of a Iudge. Likewise their bounty or liberality consisted in providing great dinners, and exhibiting magnificent shews vnto the people, &c. Where we must obserue, that as often as this largesse is called *Largitio*, it is taken in the worst sense, namely, for an vnlawfull bribing of the suffragers, vnder a pretended largesse. [o] *Benignitas liberalitatem magis significat quàm largitionem.*

[a] Cic. orat. pro L. Mur. *Mercemur seruum qui dicat nomina, &c.* Hor. l. 1. ep. 6.

[b] Cic. loco. supra citato.

[l] G. Trapez. in Phil. 2.

[m] Sig. de iud. lib. 2 c. 19.

[n] Barth. Latomus in orat. pro M. Cœlio.

[o] Cic. orat. L. Murzn.

[c] Rosin. ant. Rom. l. 7. c. 8.

Cap. 7.

De Romanis veſtibus.

WEE may obſerue in reading old autors, that as well the *Romans* as the *Grecians* had diuerſe diſtinct habits, or outward veſtiments. The *Grecians* had their mantle called *Pallium*; the *Romans* their gowne called *Toga*, and by this different kinde of garment the one was ſo certainely diſtinguiſhed from the other, that this word *Togatus* was often vſed to ſignifie a *Roman*, and *Palliatus*, a *Grecian*. [f] *Togati pro Romanis dicti, vt Palliati pro Gracis.* Before we proceed, wee will firſt obſerue what this *Toga* was, and then how many ſorts there were. [g] *Toga à tegendo dicta eſt.* It was made commonly of wooll, but according to the worth and dignitie of the perſon, ſometimes of courſer, ſometimes of finer wooll. As we may collect by that of *Horace*,

---Mihi ſit toga, quæ defendere frigus
Quamvis craſſa queat.---

[h] We muſt note with *Toxita*, that no women of any credit did weare the *Roman* gowne, but inſteed thereof did vſe a garment called *ſtola* from στέλλω ſignifying *demitto*, *quòd uſq; ad talos demitteretur*: whence old Poets, when they would point out vnto vs an infamous or lewd ſtrumpet, they would tearme her [i] *Mulierem togatam.* [k] This *toga* ſometimes was worne open and vntuckt; then was it called *Toga aperta*: other times it was tuckt vp, and then it was called *toga præcincta.* This cincture or girding vp of the gowne was according to [l] *Sigonius* threefold; *Cinctura laxior*, *Aſtrictior*, and *Cinctus Gabinus. Cinctura laxior*, or the looſe kinde of girding was ſuch, that notwithſtanding the tucke, yet the taile trailed on the ground. *Cinctura aſtrictior* the cloſe kinde of girding was ſuch, that after the gowne had beene lapped or

f Sigon. de iudic. l. 3. c. 19.
g Mic. Toxita in orat. Philippic. 2.
h Mic. Toxita ib.
i Roſin. ant. Rom.
k Sig. de iud. lib. 3. cap. 19.
l Sig. ib.

or tucked vp, it ſhould not reach ſo far as the feet. The firſt kind of theſe cinctures did argue a remiſſe, ſoft, and effeminate minde; the latter did ſignifie the promptneſſe or readineſſe of the perſon; [m] *Vnde, Alte præcincti pro expeditis dicti ſunt.* Thirdly, *Cinctus Gabinus* was a warlike kind of girding not ſo that the whole gowne ſhould be tucked vp about the middle, but that it being caſt quite backward, the partie ſhould gird himſelfe with one skirt thereof. [n] This kinde of girding was ſo called from a certaine citty of *Campania* called *Gabij*, becauſe vpon a time the inhabitants of this cittie being at ſacrifice, were ſet vpon by their enimies; at which time they caſting their gownes behind them, and girding one lappet or skirt about them, went immediatly to warre, euen from the altars, and got the conqueſt. [o] In memory of which ever after, the *Conſul* when he ſhould proclaime war, girded himſelfe in like manner. Neither had the *Conſul* alone a peculiar garment when he proclaimed war, but euery ſouldier in time of warre did weare a different kinde of garment from the gowne, which they called *Sagum*: we may engliſh a ſouldiers coat. Whence *Tully* vſeth this phraſe *ad ſaga ire*; which *Eraſmus* hath paralleld with this, *Ad certamen ſe accingere*, to buckle for warre. Inſomuch that *Cedant ſaga togæ*, is *æquivalent* to that of the Oratours. *Cedant arma togæ.* Touching the difference of the *Romane* gownes, I finde them diſtinguiſhed by [p] *Sigonius* according as followeth; in *Togam Puram, Candidam, Pullam, Prætextam, Paludamentum, Picatam, Trabeam. Toga pura* was the common ordinary gowne worne by new married women, and, *Tanaquil prima texuit rectam tunicam, quæ ſimul cum toga pura tyrones induuntur novæ nuptæ. Plin lib. 8 cap. 48.* and by priuate men at mans eſtate, about the ſixteenth yeare of their age, at which time they were ſaid, *Excedere ex ephebis*, that is, to bee paſt ſtriplings. Notwithſtanding the ſixteenth yeare was not alwaies ſtrictly without exception obſerued; [q] for *M. Aurelius* was permitted to weare this gowne being but fifteene yeares old;

[m] Sig. ibid.

[n] Serv. Æneid lib. 7.

[o] Alex. Genial. dier. l. 1. c. 14.

[p] Sig. de iur. 3. cap. 19.

[q] Roſin. antiq. lib. 5. cap. 32.

old; and *Caligula* did not weare it till the nineteenth yeare of his age. This kinde of gowne beſides that it was called *Pura* it was alſo ſometimes called *virilis*, ſometimes *libera*. It was called *pura* in reſpect of its pure white colour, being free frō all admixtures of purple, or any other colour and therefore ſome haue teamed it ὁλόλευκον, all white, others ἀπόπορφυρον, void of purple. It was called *virilis*, becauſe it was giuen to ſtriplings now growing to mans eſtate. Whence we vſe to ſay of a ſtripling paſt 16 yeares of his age, *virilem togam ſumpſit*, he is now become a man. Laſtly, it was called *libera*, [y] becauſe then they did receaue ſome beginning of freedome as being about that time freed from their ſchool-maſters, & ouerſeers. [z] This kind of gown was not made open but ſowed downe to the bottome, and alſo it was made without ſleeues, ſo that if at any time they had occaſion to vſe their armes, they would take vp their gowne and caſt it quite behind them, or vpon their ſhoulders. But theſe ſtriplings could not for one whole yeares ſpace, caſt back their gowns in that manner for the liberty of their armes without the imputation of immodeſty, as it appeareth by [a] *Cicero*, *Nobis annus erat vnus ad cohibendum brachium toga conſtitutus.* The like liberty it ſeemeth was denied thoſe that ſtood for places of office; [b] and thence is it, that *Horace* wiſheth ſuch to hire them a ſervant

Et toga non talus vincere iuſſa niues Martial.

y Roſin. antiq. Rom. l. 5. c. 32.

z Aldus Manutius. v. Roſ. ib.

a Cic. in orat. pro Cœlio.

b Sig. de iud. lib 3. cap. 19.

---*Lanum*
Qui fodiat latus, & cogat trans pondera dextram
Porrigere---

In which place by *pondera* is vnderſtood the Roman gowne, as [x] *Sigonius* hath expounded that place. Now for the vnderſtanding of *Toga candida*, wee are to learne a difference betweene this *candida toga*, and the *toga pura* aboue ſpoken of, which is oftentimes called *toga alba*, both of which were white, but differed in the degree of whiteneſſe. The *toga alba* had only the naturall whiteneſſe of the wooll; the *toga candida* had an artificiall white die: whereby the glaſſe of the white was made more orient and intenſiue. Or elſe as [y] *Sigonius*

x Sigon. ib.

y Sigon. ib.

nius hath obſerued out of *Iſidorus*, *intendendæ albedinis cauſâ cretam addiderant*, that is, they chalked it to encreaſe the whiteneſſe thereof. And hereunto *Perſius* alludeth

---Quem ducit hiantem Cretata ambitio.

Whence *Polybius* calleth it *togam λαμπρὰν*, that is, ſhining or ſplendent. Moreouer whereas the *alba toga* was the ordinary Roman gowne which commonly the *Romane* cittizens did weare; this *candida toga* was only worn by thoſe which did *ambire magiſtratum*, ſue for a magiſtracy or place of office, who during the time of their ſute were called from their gowne *candidati*: and *Quintilian* borrowing his metaphor from them, hath called an young ſtudent *eloquentiæ candidatum*. The third ſort of gowne which I tearmed *togam pullam*, was a black gowne, and thereof was two ſeuerall kinds; the one cole-black, which was worne *luctus cauſa*, in token of mourning and the mourners were thence called *Atrati*, and as often as they did were this gowne, they were ſaid *Mutare veſtem*, [z] which phraiſe in old antors doth ſignifie nothing elſe, but to goe in mourning apparell: The other not cole-black, but only fouled or ſtained, and that was worne *reatus cauſa*, in times of arraigneмēt, & thoſe that wore it were called *ſordidati*, *á ſordibus in veſte*, from the ſpots or ſtaines in the gowne. Where we muſt note, that in proceſſe of time *Toga pulla* became the ordinary gowne which the common people did weare; at which time the ordinary gowne, which the citizens of better place and eſteeme did weare, was the *toga candida*: wherevpon there did then grow a diſtinction of the cittizens vnknown to the former age, ſaith *Roſinus*, namely that ſome were tearmed *candidati*, others *pullati*, *Candidati* were thoſe, not which became ſuiters for places of office (as in old time it ſignified) but thoſe which did liue in better repute then others, from whence it is, that [a] he whoſe office was to reade the Emperours letters in the ſenate was called *Candidatus principis*, or *Quæſtor candidatus*. It did ſome-what reſemble the office of the King his maieſties chiefe Secretary.

[z] Sig. de iud. lib. 3. c. 19. Cic. orat. pro P. Sext. *Suum dolorem veſte mutatâ ſignificabant Romani.*

[a] Feneſtella de mag. Rom. cap. 3.

cretary. *Pullati* were those of the commonalty or inferiour sort. The fourth sort of gowne was the *toga pretexta*, so called, *quia ei purpura pretexta erat*, because it was garded about with purple silke. This kinde of gowne at the first was vsed only by the Romane priests, and chiefe magistrats: Neither was it lawfull for such as did weare that gowne to be arraigned, or sentence to be giuen on them vntill that gowne was put off. In continuance of time this *toga pretexta* was permitted first to Noble-mens children: afterward to all Romane children in generall: wherevpon, [b] *Togatus à pretextato differt, vt priuatus à magistratu, & vir à puero*, and *ætas pretexata*, is taken for childhood; and *pretextati* sometimes for magistrates, but commonly for young children. The fift sort of gowne was called *Paludamentum*; It was a military garment, which [c] none but the L. Generall of the chiefe captaines did vse to weare. [d] *Isidorus* said it was not only garded with purple, but with skarlet and gold lace, whence it was sometimes called [e] *toga purpurea*, sometimes *coccinea*. It was much like the habit which the *Grecian* Emperour was wont to weare called *Chlamys*; yea now it is [f] called *Chlamys*; we may englisht it an *Heralds* coate of Armes. The sixt sort of gowne was called *toga picta*, [g] because in it were imbroadered goodly pictures with needie worke: it was also called *Purpurea*, not because of any purple gard (in which respect the *pretexta*, and the *paludamentum* were called *purpurea*) but because it was all ouer with a purple die. It was by some tearmed *toga palmata*, because in it many palme branches being the reward & token of victory were wrought; whence by others it was called *toga triumphalis*, because emperours in their triumphs did weare such gownes. The last sort of gowne was *Trabea*, whereof there were [h] three seuerall kinds; the one wouen all of purple, which was consecrated vnto the Gods: the second was purple wouen vpon white, and this only kings and *Consuls* might weare, the third was skarlet wouen vpon purple, and this the *Augures* onely did weare. [i] This last sort was there-

[b] Pet. Pellitarius, in orat. pro A. Cæcin.

[c] Alex. Gen. dier. l. 5. c. 18.

[d] Sig. de iud. lib. 3. c. 19.

[e] Sigon ib.

[f] Rosin. antiq. lib. 5. c. 31.

[g] Sig. de iud. lib. 3. c. 19.

[h] Serv. Æneid. lib. 7.

[i] Alex. Gen. dier. l. 5. c. 18.

therefore called *trabea anguralis*, the ſecond *trabea regia*, the firſt *trabea conſecrata*.

Cap. 8.

De Tunica.

THoſe coats which were worne vnder the gowne were called *Tunicæ*; and that they were worne vnder the gowne it appeareth by that Adage, *Tunica pallio propior eſt*, that is euery one for himſelfe firſt; or according to our engliſh proverbe, Cloſe fitteth my ſhirt. but cloſer fitteth my skinne.[k] This *tunica* was both narrower and ſhorter then the gowne: at firſt it was made without ſleeues, afterward with ſleeues, and by it, as well as by the gowne were the citizens diſtinguiſhed. The firſt ſort of coats was made of white cloath commonly,[l] but purfled over and embroadred with ſtuds of purple in manner of broad nayle heads; whence it was called *Laticlauia*, or *Latus clauus*; and the perſons wearing the coat were Senators called thence *Laticlauij*, The ſecond ſoft belonged vnto the *Romane* knights, and it differed in making from the firſt, only that the purple ſtuds or embroadred works of this, were not ſo broad as the former: whence the coat was called *Anguſticlauia*, or *Anguſtus clauus*, and the perſons wearing it were called *Anguſticlauij*. The third ſort belonged vnto the populacy and poorer ſort of *Romans*; it was made without any purfled workes, being called *Tunica recta*. This coat was giuen together with the *Virile* gowne to ſtriplings paſt fixteene yeares old, and to new maried women. And as the *recta tunica* was giuen with the *virile* gowne; ſo was the *tunica clauata* giuen togither with the *toga prætexta*; & the *Laticlauia* otherwiſe called *tunica palmata*, giuen with the *toga picta*. The fourth and laſt ſort belonged vnto vvomen, being a long coat reaching dovvne vnto the heeles; they called it *ſtolam*. Vpon it they did vveare an outvvard garment[m] called *palla-*

[k] Sig. de iud. lib. 3. cap. 20.

[l] Salmuth. in Pancirol. lib. rerum deperdit. cap. de fibula. Vid. Turneb. adverſ. l. 1, c. 2.

[m] Roſin. Ant. lib. 5. cap. 35.

um, and ſometimes *palla*, *quia palam geſtabatur*. [n] *Sigonius* ſaith, that this *palla* was a certaine gowne vſed by ſtage-plaiers: howſoeuer certaine it is, that not only women, but men alſo and children did weare this kinde of garment. Beſides the *Roman* gown and coat there remaine other parts of their apparell to be ſpoken of: ſuch are theſe which follow, *Lacerna*, which ſome doe engliſh a cloake, but [o] *Feſtus* would haue it to be a little kinde of hood, which men ſhould weare to defend themſelues from the raine and weather; It was made that either ſide might be worne outward; and at firſt it was worne only in warre, ſo that *lacernati* ſtood in oppoſition with *togati*. [p] *Iſidorus Togatos pro vrbanis, lacernatos pro militibus vſurpatos ſcribit*, Afterward as we may coniect, it was made longer in manner of a cloake, for it was diuers times worne vpon their coats inſteed of gownes. Another kinde of garment was the *Penula*, ſo called *quaſi pendula*, wee may tranſlate it a long hanging cloake. A third was called *Mitra*, which ſometimes did ſignifie a certaine attire for womens heads, as a coyfe or ſuch like; though this kinde of attire was more properly called *Calantica*: other times it ſignified a girdle, which more properly was called *zona*; This *zona* chiefly ſignified a ſouldiers belt, or a marriage girdle: The ſouldiers belt was lined within in the inſide, were when they went to warre, they did put their mony: whence *Horace* ſaith of a man that hath loſt his mony, *zonam perdidit*, And ζώσασθαι, to be girt, ſignifieth ἐνδύσασθαι τὰ ὅπλα, *Arma induere*. *Cæl. Rhod. l. 22. 19.* happely becauſe that part of the body which was girt, was conſecrated to *Mars*, as the forehead was to euery mans particular *Genius*, the armes to *Iuno*, the breaſt to *Neptune*, the reines to *Venus*, the feet to *Mercury*, and the fingers to *Minerua*, *Alex. ab Alex. l. 2. c. 19.* Young maides when they were married were wont to haue a marriage girdle tied about their middle, which their husband at the firſt night of their marriage ſhould vntie: whence *zonam ſoluere* hath beene tranſlated to deflowre a Virgine: this marriage girdle

n Sig. de iud. lib. 3. cap. 19.

o Sigon. ibid.

p Sigon. ibid.

girdle in former times was called *Ceſtus*, from whence commeth the Latine word *inceſtus*, and the engliſh word Inceſt: which in truth ſignifieth all kinde of pollution committed by vndoing, or vntying this girdle called *ceſtus*: but now in a more ſtrict acception it ſignified only that kinde of naughtineſſe, which is committed betweene two of neere kin: and that other folly which is committed with a ſtrangers wife, is now properly called *adulterium*; and that which is committed with a maide or widdow *ſtuprum*. The laſt thing touching their apparell is their ſhooes. [r] *Calceamentorum genera duo fuerunt, calceus, & ſolea*: For the ſoale of the ſhooe called in Latine *ſolea*, ſometimes *crepidula*, and in *Cicero* his time *gallica*, was tied on to the bottome of the foot with leatherne ſtraps or buckles, and ſo worne inſteed of ſhooes: the diuers kindes of theſe ſhooes did diſtinguiſh the *Roman* people alſo. To omit the difference in colours, wee may reduce the chiefe kindes to fiue heads, *Mullei*, *Uncenati*, *Perones*, *Cothurni*, *Socci*. All theſe ſorts of ſhooes were made halfe way vp the legge, as the Turkiſh ſhooes are according to *Ioſephus Scaliger*: and they were either laced cloſe to the legge, as many of our boots are now adaies; or claſped with taches or haſpes. The firſt ſort called *Mullei* [s] from the fiſh *mullus*, being like vnto it in colour, were alſo called from their claſpes *calcei* [t] *lunati*, becauſe the claſpes were made in forme of an halfe moone, which halfe mooned claſp reſembling a *Romane* C, ſignified an hundred; [u] intimating thereby that the number of the *Senators* (they onely being permitted to weare this kinde of ſhooe) were at firſt a full hundred and no more. Others are of opinion that they wore this mooned claſp to put them in minde that the honour to which they had attained was mutable and variable as the moone. For they thinke that theſe *Lunati calcei* were not receiued as a token of Nobility only at *Rome*, but in other places, to which purpoſe they interpret that of the Prophet *Eſay, cap. 3. In die illo auferet Dominus ornamentum calceorum & lunulas. Cœl. Rhod. lect. Antiq.*

q Cælius in orat pro Milone.

r Roſin. antiq. Rom. lib. 5. c. 36.

s Salmuth in Pancirol. lib. rerum deperdit. cap. de fibula.

t *Appoſitam nigræ lunam ſubtexit alutæ.* Iuuenal.

u Salmuth. in Pancirol. lib. rerum deperdit. cap. de fibula

tiq. l. 20. *c.* 28. *Vncinati calcei*, vvere thoſe, vvhich the ſouldiers vvere vvont to vveare. I take them to be the ſame vvith thoſe vvhich they called *Caligæ*, from vvhich kinde of ſhooes *C. Cæſar Caligula* had his name, becauſe he vvas borne in the army. *Quia natus in exercitu fuerat, cognomentum calceamenti militaris, id eſt, Caligula ſortitus eſt. Aurel. Vict. Epitom. de vita imperat.* *Perones* (as vve may conieture) vvere laced vp the legge, for *Tertullian* making but tvvo ſort of ſhooes, ſaith there vvere the *Mullei* called from their claſpes *lunati*, and the *Perones* made vvithout ſuch halfe mooned claſpes, called alſo *calcei puri, quoniam ex puro corio facti*; and theſe *perones*, or *puros calceos* all the other *Romans* did vveare [x] vvith this note of diſtinction, that the magiſtrats ſhoos vvere beſet vvith pretious ſtones, priuate mens vvere not. Thus much concerning both the kindes and faſhion of the ſhooes may be collected out of *Roſinus* in the place aboue quoted. The deſcription and vſe of the *Cothurnus*, and *Soccus*, may be ſeene in the tract *de Romanis ludis*.

x Salmuth in Pancirol. lib. rerum deperdit. c. de fibula.

LIB.

LIB. 3. SECT. 2.

Of the Romane Magistrats.

CAP. 1.

De Magistratibus Romanis.

WE being to treat of the *Romane* Magistrates vvill first see vvhat the definition of a Magistrate is. A magistrate is he [o] vvho receaueth by publique authority, the charge and ouersight of humane affaires belonging to the commonvvealth. These *Romane* Magistrats vvere either to bee chosen only out of the better sort of *Romanes*, called the *Patricij*; or else only out of the commonalty. [p] The first vvere thence called *Magistratus patricij*, the second *Magistratus plebeij*. The *Patricij* had povver to hinder the assemblies of the people; namely their *Comitia*, by obseruing signes and tokens from the heauens: hovvbeit some of them had greater povver, others lesse; insomuch that some vvere called *Maiores Magistratus, quoniam habebant maiora auspicia, id est,* [q] *magistratus*. Others vvere called *minores magistratus, quoniam habebant minora auspicia*. Of these in their order.

[o] Sig. de iur. Rom. l. 1. c. 20.

[p] Sig. de iure Prouinc. l. 3. cap. 1.

[q] Feneſt. de Magiſt. Rom. cap. 1.

CAP. 2.

Cap. 2.

De Rege & Tribuno Celerum.

IN the infancy of *Rome*, it vvas gouerned by a king vntill *Tarquinius Superbus* his time, vvho by maintaining that ſhamefull act of his ſonne tovvards *Lucretia*, did ſo incenſe the poople, that they did not only for the preſent exile him, but decreed that their city ſhould neuer after that bee gouerned by a king. This king had abſolute rule and gouernment ouer the city. For the ſafety of his perſon hee had three hundred choſen young men alvvaies to bee attendant about him, much like vnto our Kings Majeſties Guard here in *England*, or rather his *Penſioners*. They vvere called [r] *Celeres à celeritate*, from their readineſſe in aſſiſtance: ſometimes they vvere called *Troſſuli*, [ſ] becauſe they alone vvithout the helpe of any foot-men did take a certaine city in *Etruria* called *Troſſulum*. Other times they haue beene called *Flexumines*, vvhereof as yet there hath beene no certaine reaſon rendred. Each hundred of them had their ſeuerall ouerſeer called *Centurio*: and ouer them all there vvas one generall ouerſeer, and chiefe commander, vvhom they called *Prafectum, vel Tribunum Celerum*, his place being next to the king. A ſecond ſort of attendants about the king were called *Lictores à ligando*, according to that, *Lictor colliga manus*. They were by the *Grecians* called ῥαβδοῦχοι, which we may render Virgers from ῥάβδος a rodde, and ἔχω, to haue: though ſometimes ῥαβδοῦχοι doe ſignifie the ſame as ῥαψῳδοί. The reherſers of *Homers* verſes, or in generall of any other *Poets*: ὅθεν τὸ ῥαψῳδεῖν ἄλλα, from patching together other mens Poems. For the reciters of *Homers* verſes were wont to hold a rodde or wand in their hand during the time of reherſall. *Cal. Rhod. l. 7. c. 29.* They didſomewhat reſemble our Seriants, there being in number twelue of them. Their office was to carry certaine bundles of birchen

[r] Plutarch. in Romulo.

[ſ] Plin. lib. 33. cap. 2.

birchen rods with an axe wrapped vp in the midſt of them: the rods in Latine were called *Faſces*, the axe *Securis*. [t] The reaſon why they carried both axes and rods was to intimate the different puniſhment that belonged to notorious and petty malefactors. The reaſon why they were wraped vp together was not only that they might thereby be more portable, but that the anger of the magiſtrate might be ſomewhat allayed, whiles they were vnbinding. Hence, becauſe theſe *Faſces virgarum & ſecurium*, did betoken honour and chiefedome in place and autority, by the figure *ſynecdoche* this word hath beene vſed to ſignifie honour and dignity, as *Faſcibus ſuis abrogatis*, he being diſcharged of his magaſtracie or dignity. And *Faſces ſubmittere* to giue place, or yeeld vnto. *Valerius Publicola* gaue the occaſiõ of the prouerb. He to inſinuate himſelfe into the harts of the people is ſaid, *Submittere faſces populo quoties prodiret in concionem.* Some interpret it, as if he were wont to command the ſeriants quite to departe out of the aſſembly with their rodds, which opinion *Plutarch* in *Publicola* confuteth writing thus: *αὐτὰς δὲ τὰς ῥάβδους εἰς ἐκκλησίαν πορεύων, ὑφῆκε πρὸς δῆμον, καὶ κατέκλινε.* *Faſces ipſos in concionem progreſſus populo ſubmiſit inclinauitq;* So that the phraſe ſignifieth properly, the not holding vp of the rodds, or rather the laying them downe as it were at the feete of the people. *Cal. Rhodig. l. 12. c. 7.*

[t] Ioac. Camerarius in orat. pro Flacceo.

Immedicabile vulnus Enſe recidendum, &c.

Cap. 3.

De Senatu, & quis Princeps Senatus, & qui Senatores Pedarij?

TOuching the election of the *Senators*, the number of them, and the diſtinction of them into *Senatores maiorum & Senatores minorum gentium*, ſufficient hath beene deliuered in the ſecond diuiſion of the *Rooman* people; as likewiſe in the third diuiſion hath beene ſhewne the habit

or gowne: by which the *Senators* were diſtinguiſhed from the *Roman* Gentlemen. Here therefore it ſhall be ſufficient for vs to vnderſtand, that euery ſolemne meeting, or conſiſtory of theſe *Senators* was called *Senatus*. The foreman of them (which could be no other then ſuch, as had been either *Conſul* or *Cenſor*, was called *Princeps Senatus*, and his opinion was alwaies firſt asked. Now among thoſe that had borne thoſe foreſaid offices, it was in the *Cenſors* power to make whom he would fore-men. The decree of this conſiſtory was called *Senatus-conſultum*. And many times it is written with theſe two letters onely, S. C. In like manner their preface to theſe decrees was commonly theſe two capitall letters B. F. That is *Bonum factum*. *Sueton. Iul. Caſ. cap. 80.* and it had the ſame vſe as, *In nomine Dei* with vs. The place where this conſiſtory was had they called *Senaculum*. None was [u] ordinarily admitted into the place of a *Senator*, before the fiue and twentieth yeare of his age: and of thoſe that were admitted, ſome were allowed to ride vnto the Senate-houſe in a Curule-chaire, namely when they had borne ſuch office, which gaue them right vnto that chaire: others which had not borne ſuch office went on foot: [x] whence theſe latter were called *Senatores pedarij*. They determined their acts which they called *Senatus-conſulta*, ſometimes by departing downe their branches, and dividing themſelues into ſides; thoſe which did approue that which was propoſed, ſided with the party who did *Referre ad Senatum*, that is, propoſe the matter vnto the Senate; the others departed vnto the contrary ſide; or if they came not downe at all, but ſate ſtill on the benches, then did they ſignify by holding vp, or beckning with their hands, what ſide they would take. Now if the maior part were eaſie to be diſcerned, then they reſted there, tearming that act to be decreed [y] *per diſceſſionem*: and hence theſe and the like phraſes haue taken their beginning, *In illius ſententiam ire aut ſtare*, and *Manibus pedibuſq; diſcedere in alicuius ſententiam*, that is to be fully perſwaded of ones opinion. Now if both companies

[u] Mart. Phileticus. in Cic. l. 1. ep. fam. 1.

[x] Mart. Phileticus ibid. It. A. Gel. noct Attic. l. 3. c. 18.

[y] Hubert. in Cic. lib. 1. ep. fam. 2.

companies were almost equall, so that the maior part could not easily be discerned, then did they proceed to giue their voices; and that which was thus determined was said to be decreed, *per singulorum sententias exquisitas*, that is, by voices. Here we may obserue that to those, who were fauourably heard in *Senate*, *His senatus dari dicebatur*; and [a] likewise they were said, *Stare in Senatu*: as on the contrary they were said *Iacere*, whom the *Senate* neglected or rather condemned. [a] *Cum mihi stanti tacens minaretur*, saith [b] *Tully*. If any Senator were absent without a lawfull excuse, then was he fined; and for the payment thereof, he did put in a pledge, which if he did not ransome, then did the common Treasurer *Cadere vel concidere pignora*; that is, straine or seaze vpon the pledges, making common sale thereof; in which sense those two phrases are vsed, namely, *capere pignora*, & *auferre pignora*, that is, to straine or seaze vpon a mans goods.

[a] Ascensus in Cic. l. 1. epist. fam 4.

[a] Cic. orat. de arusp. respons.

[b] Rosin. ant. l. 7. c. 7.

Cap. 4.

De Consulibus.

After the expulsion of *Tarquinius Sup.* the last *Roman* King, all the citizens in *Rome* assembled, and concluded that the gouernment of the citty, which before was in the hand of one alone gouernour, called their King, should now be diuided betweene two: [c] who at first (before there was any such subordinate office as a *Praetorship*) the *Romans* called *Praetores*, *quod prairent populo*. Not long after they were called *Iudices*, *a iudicando*. In processe of time they were known by no other name then *Consules a consulendo populo*. [d] No citizen was ordinarily created *Consul* before the forty third yeare of his age. Neither might any be chosen without speciall dispensation, either of their absence out of *Rome*, [e] or in time of their triumph; which was the reason that *Iulius Caesar* was glad to forgoe his triumph at

[c] Rosin. ant. Rom. l. 7. c. 9.

[d] Cic. orat. Phil. 5.

[e] Suet. Iul. Cæs. cap. 18.

that time when he was Conſul with *Bibulus*. The ſignes or tokens of this *Conſular* dignity were the twelue *Lictors* carying their bundles of rodds and axes [f] the firſt month before one *Conſul*, and the ſecond before the other, as formerly they had done before the Kings.[e] Now he that had the rods caried before him in the firſt moneth, either he had more children then the other, for the *lex Iulia* gaue præcedency to him who had moſt children, or he was elder then the other, or in time of the election he was firſt pronounced before the other, for which reſpects he was called *Conſul maior*, and *Conſul prior*. [g] The reaſon why each *Conſul* had not twelue *Lictors* alwaies, was becauſe the tyranny of the *Conſuls* might then ſeeme to be doubled and to exceed the tyranny of the Kings: another token was a certaine chaire of eſtate called *Sella eburnea*, that is, an yvory chaire, ſo called from the matter whereof it was made, and [h] becauſe this chaire was commonly carried about in a certaine coach or chariot, wherein the *Conſul* did ride, hence from *Currus* which ſignifieth a chariot it is alſo called *Sella curulis*: where[i] note that the word *Curulis* is ſometimes vſed ſubſtantiuely: and then it ſignifieth ſome chiefe magiſtracy or office amongſt the *Romans*. The gowne, by which they were diſtinguiſhed from other magiſtrats or priuate men, was a certaine purple gowne, which from the great embroadred workes was called *Trabea*, and he that did weare it was thence called *Trabeatus*, according to that, *Trabeati cura Quirini*. It will be worth the obſeruation to note, that the *Romans* did date their deeds and charters in old time, by naming the yeare wherein their citie was firſt founded; as to ſay *Ab vrbe condita* the twentieth, thirtieth, or fortieth yeare, &c. But in proceſſe of time their manner of dating was by ſubſcribing the names of their preſent *Conſuls*: as to ſay, ſuch a thing was determined *L. Valerio, M. Horatio Conſulibus*, ſuch and ſuch being *Conſuls*. Whence *Suetonius* ſpeaking of *Iulius Cæſar*, ſaith, he was appointed to be *Flamen Dialis, ſequentibus conſulibus*, that is, tha-

[f] Alex. Gen. dier. l. 3. c. 3.

[e] Cæl. Rhod. lib. 12. c. 8.

[g] Feneſt. de magiſt. Rom.

[h] A. Gell. l. 3. cap. 18.

[i] Stadius in Elor. l. 1. c. 5.

the next yeare following. Yea this was so common a date that to know the age of their wines they signed their vessels with the names of their *Consuls*, adding withall, that they might know the goodnesse of their wine, the name of the country whence it came, according to that of *Iuvenal. sat. 5.*

---Cuius patriam, titulumq; senectus
Deleuit multa veteris fuligine testa. Turn. adv. l. 1. c. 1.

Those alone who had borne the office of a *Consul*, not euery one that was capeable thereof, were said to be *Viri consulares.*

[k] At the first those who were created *Consuls* remained in their office the space of an whole yeare, being *designati ad consulatum* vpon the twentie fourth of October. [l] *Ad consulatum non inierant ante Calendas Ian.* that is, the first of *Ianuary.* The reason of this chasme, or *interim* betweene their designation vnto their office, and their entry into it, was (as we may probably coniect) that the competitors might haue some time to enquire *de Ambitu*, that is, whether there was no vndirect and vnlawfull meanes vsed in their canvasing. In processe of time either by voluntary resignation or deposition or death many *Consuls* haue beene chosen in the same yeare, and they were called [m] *Non ordinarij & suffecti Consules.* At such times all their deeds were dated by the names of the two first *Consuls* which beganne the yeare: whence those two first, and likewise all those that continued in their office the whole yeare were called [n] *Consules Honorarij*, and *Consules Ordinarij.*

[k] I Tustinus in orat. Cic. pro Cœlio.
[l] P. Ramus in orat. Catil. 1.
[m] Fr. Sylvius in Cic. Orat. pro Muræn.
[n] Rosin. ant. Rom. l. 7. c. 9.

Cap. 5.

De Censoribus

THE *Consuls* finding them selues encombred with so many businesses of a different nature, did by consent of the *Senate* choose two peculiar officers called [o] *Censores à censendo*; because they cessed and valued every mans

[o] Fenest. de magist. Rom. cap. 17.

mans eſtate, regiſtring their names, and placing them in a fit centurie. For it did concerne the *Romanes* to know the number, and likewiſe the wealth of the people, to the end they might be informed of their owne ſtrength, and ſo ſhape their courſe accordingly, either in vndertaking warres, tranſplanting Colonies, or in making prouiſion of victuals in time of peace. A ſecond and maine part of their office was in reforming manners, to which end they had power to enquire into euery mans life. This part of their authority was noted out vnto vs by this phraſe, being called *Virgula cenſoria*. If any one had plaied the ill husband, and neglected his farme, or left his vine vntrimmed, the *Cenſors* tooke notice thereof. They did *Senatu & Tribu mouere*, that is, They did depoſe Senators and pull downe men from a more honorable Tribe, to a leſſe honorable. *Deminutio maxima* was the loſſe of ones Tribe, citty, and freedome. Theſe *Cenſors* were reputed of the beſt rancke of Magiſtrats in *Rome*: they remained in their office an whole fiue yeares ſpace ordinarily. I ſay ordinarily, becauſe through the abuſe of their place, the office hath beene made ſometimes annuall.

r Feneſt. de Rom. magiſt cap. 7.

ſ Pomp. Læt. de Rom. mag. c. de Cenſor.

That fiue yeares ſpace the *Romanes* did call *Luſtrum*, becauſe they did once in euery fiue yeares reuolution *Luſtrare exercitum Romanum*, by ſacrifice purge the *Roman* army. Hence wee ſay *duo Luſtra*, 10 yeares; *tria Luſtra*, 15 yeares &c. The preformance of this *Luſtration* belonged alſo vnto the *Cenſors*: for after the *Cenſors* had performed the one part of their office, in regiſtring the iuſt valuation of euery cityzens eſtate,

t Pancirol. lib. rerum deperd. c. de cibi capiendi modo.

u Alex. Gen. dier. l. 5. c. 27.

x Pomp. Læt. damag. Rom. c. de Cenſor.

they did leade a Sow, a Ram and a Bull, three times about the army, and in the end ſacrifiſed them to *Mars*: and thus to purge an army, is *condere Luſtrum*; though ſometimes *condere Luſtrum* doth ſignifie, to muſter an army. Theſe ſacrifices, as likewiſe all others of the like nature, that is, wherein there was a Sow, a Ramme, and a Bull ſacrificed, were tearmed ſometimes * *Suouetaurilia*, ſometimes *Solitaurilia*, ſometimes * *Taurilia*. Moreouer it did belong vnto theſe *Cenſors* to farme out the tributes

butes, impostes, tollage, &c.[y] At the fiue yeares end, the acts of both their *Censors* were registred vpon books of record, which records were laid vp in a certaine religious house dedicated to the *Nymphs*. Whence [z] *Cicero* speaking of *Clodius*, saith, *Qui eadem Nympharum incendit, vt memoriam publicam incensis tabulis publicis impressam aboleret.*

[y] Pancirol. l. rerum deperd. cap. de cibi capiendi modo.
[z] Cic. pro Milone.

CAP. 6.

De Praetoribus.

THE *Consuls* by reason of their many troubles in warre, hauing no time to administer iustice vnto the *Roman* people, did for their better helpe therein, create two new officers for the executing of iustice; the one to examine and iudge of matters within the citty, betweene citizen, and citizen; the other to decide controuersies between forreiners: The first they [a] called *Praetorem vrbanum*, & *Praetorem maiorem*; the other *Praetorem peregrinum*, & *Praetorem minorem*: we may english them Lord-chiefe-Iustices. Where we must note that at the first there was only the *Praetor Vrbanus*, vntill the cases and suits in law became so many, that one was not sufficient to heare them all: [b] yea at last the number of the *Praetors* came to sixteene: namely, when those two were added for the providing of corne and graine; whence they were called *Praetores cereales*; [c] nay there were at last eighteene *praetors*, there being two others added to iudge of controuersies touching feofments of trust, called thence *Praetores fidei commissarij*. [d] *Causarum duo genera sunt: alia priuata, alia publicae; has criminosas, illas ciuiles appellant.* In those cases which were priuate, that is, [e] touching equitie and vprightnes of any act, or the restitution of any mony, or goods vnlawfully detained from the right owner, it belonged principally vnto the two first *Praetors* to iudge, but vnder them vnto the *Centumviri*, who oftentimes are called by *Tully*, *Recupera-*

[a] Pighius x-quipet. comp.
[b] Alex. Gen. dier. l. 2. c. 15.
[c] Feneſt. de mag. Rom. c. 19.
[d] Fr. Syluius in orat. pro Muræn.
[e] I. Saxonius in Cic. orat. pro S. Roſcio.
[f] Roſin. ant. lib. 7. c. 11.
[g] I. Saxonius ibid.

cuperatores, and *Iudices haſtæ*; the court *Haſta centumviralis*; becauſe one of the markes and ſpeciall enſignes was a ſpeare erected vp in the place the court was kept. Thoſe caſes which were publique or criminal, as treaſon, murder, bying of voices in the canvaſing of offices, &c. were called alſo *cauſæ capitalis*, and *capitis dimicatio*, that is, [h] ſuch caſes wherein if the party accuſed had beene found guilty he was *capite damnatus*: by which phraſe we muſt not vnderſtand alwaies *Vltimum ſupplicium, ſed aliquando exilium, quo ſcilicet caput*, that is, *ciuis eximitur à ciuitate*. [i] Theſe caſes at the firſt were heard by the kings and *Conſuls*; afterward by certaine appointed thereunto by the people, being called from their inquiſition *quæſitores parricidij*. In continuance of time the examination and hearing of theſe publique caſes was turned ouer vnto certaine magiſtrates, who becauſe they were to continue their office a full and entire yeare (whereas the others had their autority no longer then they ſate in iudgement) were thence for diſtinction ſake called *Prætores Quæſitores*, and the caſes were tearmed *Quæſtiones perpetuæ*: [k] becauſe in theſe caſes there was one ſet forme of giuing iudgement perpetually to remaine; whereas in thoſe priuate or ciuill cauſes the *Prætor* did commonly euery yeare change the forme of giuing iudgement by hanging vp new edicts. [l] Here we muſt note that theſe *Quæſitores Parricidarum*, otherwiſe called *Prætores Quæſitores*, had not the examination of all publike caſes, but ſometimes vpon extraordinary occaſions either the *Conſuls*, the *Senate*, or the people themſelues would giue iudgment. Now as thoſe former Prætors had a ſpeare erected vp, whereby their court for priuate cauſes was known; ſo had theſe *Quæſitores* a ſword hanged out in token of their court. [m] *Prætorum inſignia duo fuere, haſta, & gladius; illa ad iuriſdictionem, hic ad quæſtionem ſignificandam.* The officers which did attend theſe Prators were *Scribæ*, that is, certaine notaries much reſembling the Clarkes of our Aſſiſes, their office being to write according as the Prætors or

[h] Fr. Sylu. in orat. pro Mur.

[i] Roſin. ant. l. 9. c. 18.

[k] Roſin. ant. lib. 7. c. 11.

[l] Roſin. ant. lib. 6. c. 18.

[m] Sig. de iud. lib. 1. cap. 7.

or chiefe Iuſtices did bid them, taking their name *à ſcribendo*. The ſecond ſort were called *Accenſi ab accienda*, from ſummoning, becauſe they were to ſummon men to their appearance. They much reſembled our Bayliffes errant. The third ſort were *lictores* of which before: [n] The authority of the vrbane *Prator* was ſo increaſed in time, yea his honour was ſuch, that whatſoeuer he commanded, it had the name of *Ius honorarium*. [o] Others are of opinion, that onely the *Pretors* edict was that *Ius honorarium*; [p] the *Prator Vrbanus* being wont at the entrance into his office, to collect a ſet forme of adminiſtration of iuſtice out of the former lawes & ſeuerall edicts of former *Pretors*, according vnto which hee would adminiſter iuſtice all the yeare following. And leaſt the people might be ignorant of the contents thereof, he cauſed it to be hanged vp to the publike view. This forme of iuſtice was tearmed *Edictum, ab edicendo, id eſt*, [q] *imperando*; becauſe thereby he did command, or forbid ſomething to bee done. Whence *Pellitarius* in the place now quoted doth tranſlate *conſulum edicta*, Mandatory letters, that it might be diſtinguiſhed from other Magiſtrats edicts. It was commonly called *Pretoris edictũ*. And as *Pighius* obſerueth in the place aboue quoted, it was called *edictum perpetuum*; not abſolutely, becauſe the vertue therof was perpetuall (for that expired together with the *Pretors* office, and therefore [r] *Tully* calleth it *legem annuam*:) but in reſpect of other edicts made in the middle of the yeare vpon extraordinary and vnexpected occaſions, which latter ſort of edicts [s] *Tully* calleth *peculiaria & noua edicta*. Afterward, [t] *Salvius Iulianus* collected an Edict out of all the old edicts of the former *Pretors*, wherein almoſt all the whole ciuill law was contained, and this was called properly *Edictum perpetuum*, becauſe that all the *Pretors* euer after did adminiſter iuſtice according to the Edict, by the appointment of *Hadrianus* being then Emperour. The Edict being giuen out, the adminiſtration of iuſtice conſiſted in the vſe of one of theſe three words, *Do, Dico,*

n Feneſt. de Rom. magiſt. cap. 19.
o P. Pellit. in Cic. orat. pro A. Cœcinna.
p Pighius Æquipet. comp.
q Pellit. in Cic. orat. pro A. Cœcinna.
r Cic. in Ver. 2
s Cic. in Ver. 5
t Sig. de iud. lib. 1. cap. 6.

u l. Camerar. in Cic. orat. pro Flacco.

co, & Addico, id est, u *Dat actionem, Dicit ius, Addicit tam res quàm homines.* That is, he is said *Dare*, when he granteth out an action or writ against a man. *Dicere* when hee passeth iudgement on him, and *Addicere* when he in the court doth see & allow the deliuery of the thing, or the person on which iudgement is passed. The forme of Addiction was thus. After iudgement had beene pronounced in the court the partie which prevailed, laid his hand on the thing or the person against which sentence was pronounced vsing this forme of words, *Hunc ego hominem, sive hanc rem, ex iure Quiritium meam esse dico.* Then immediatly did the Chiefe Iustice *Addicere*, that is, approue the challenge, and grant a present possession. *Anton. in Fast. lib. 1.* For explanation whereof wee must knowe, that this word *Addico*, is sometimes *verbum Augurale*, sometimes *Forense*, sometimes a tearme of art belonging vnto the discipline of the *Augures*, and so the birds are said *Addicere*, when they shew some good and lucky token, that the matter consulted about is approued by the Gods; the opposite here vnto is *Abdicere.* Sometimes this verbe *Addico* is a tearme of law signifying as x much as to deliuer vp into ones hands, or into ones possession: whence we doe not only call those goods that are deliuered by the *Prætor* vnto the right owner *bona addicta*, but those debtors also which are deliuered vp by the *Prætor* vnto their creditours to work out their debt, are tearmed *servi Addicti*: yea moreouer because in all port-sales it was necessary that the *Prætor* should *Addicere bona* deliuer vp the goods sold: hence doth this word often signifie to sell, as *Addicere sanguinem alicuius*, to take money to kill a man, to sell a mans life. Touching the reason of their name, they were called *Prætores à præeundo quoniam iure præibant.* And y those alone were properly tearmed *viri prætorij*, which had borne this office, not they which were capeable thereof: in the same sense we say *Viri censorij*, and *viri Ædilitij*, &c.

x M. Toxita in orat. pro Pub. Quint.

y Fr. Maturantius in Philippic. 13.

Cap. 7.

De Imperatoribus, Cæſaribus, ſive Auguſtis.

WHen *C. Iulius Cæſar* had overcome *Pompey* his ſonnes in *Spaine*, at his returne to *Rome* the *Senate* welcomed him with new inuented titles of ſingular honour, ſtyling him *Pater patriæ*, *Conſul in decennium*, *Dictator in perpetuum*, *Sacroſanctus* and *Imperator*, all which titles were afterward conferred vpon *Octauius Cæſar*, & all the Emperours ſucceeding deſired to be called *Imperatores* & *Cæſares* from him. Where wee muſt vnderſtand that this name *Imperator* was not altogether vnknowne before, for by that name the *Roman* ſouldiers were wont (euen at that time) to ſalute their L. Generall after ſome ſpeciall conqueſt.[z] These *Romane* Emperours were afterward called alſo *Auguſti* from *Octauius Cæſar* whom when the Senate ſtudied to honour with ſome noble title, ſome were of minde that he ſhould be called *Romulus*, becauſe he was in manner a ſecond founder of the citie. But it was at length decreed by the aduiſe of *Munatius Plancus*, that he ſhould be ſtyled by the name of *Auguſtus*: which wee may Engliſh Soueraigne, & they counted this a name of more reuerence and maieſtie then that former name of *Romulus*, becauſe all conſecrated and hallowed places were called *Loca auguſta*. The authoritie of theſe Emperours was very great, euen as great as the Kings in former times.

[z] Serv. Æn. 1.6

Cap. 8.

De principibus iuventutis Cæsaribus, & nobilissimis Cæsaribus.

[a] A custome was receaued amongst the *Romane* Emperours in their life time to nominate him whom they would haue to succeed them in their Empire; & him they called *Princeps iuventutis*, *Cæsar*, & *Nobilissimus Cæsar*. The like custome was practised by *Charles* the fifth Emperour of *Germany*, and so hath beene continued by his successours; namely, that one should be chosen whom they called *Rex Romanorum*, who should bee so farre invested in the title to the Empire by the meanes of the present Emperour, that vpon the death, resignation, or deposition of the then being Emperour, he immediatly should succeed.

[a] Rosin. ant. l. 7. c. 13.

Cap. 9.

De Præfecto vrbis.

Romulus for the better gouernment of the citty appointed a certaine officer called *Vrbis Præfectus*, to haue the hearing of all matters or causes betweene the master and the servant, betweene orphanes and their overseers, betweene the buyer and the seller, &c. Afterward in time of the *Roman* Emperours, this *Vrbis Præfectus* did assume vnto himselfe such authority, that hee would examine and haue the hearing of all causes, of what nature soeuer, if they were *Intra centesimum lapidem*, within an hundred miles of *Rome* (for [b] *Lapis* in old time signified a mile, because at every miles end a great stone in maner of a marke-stone was erected) In the absence of the King or Consuls, he had all authority which belonged vnto them resigned vnto him. I am not

[b] Despauterius in sua syntaxi.

not ignorant, that ſome doe make this latter kinde of Preſecture, or Lieutenantſhip, a different office from the former. But I ſhould rather think them to be one and the ſame, only his authority to be more enlarged in the Kings abſence, and of this opinion doe I finde *Feneſtella*, *Alexand. Neopol.* and [c] *Sigonius*.

[c] Sig. de iure Rom. l. 1. c. 20.

CAP. 10.

De Decemviris legibus ſcribendis.

FOR the better adminiſtration of iuſtice: the [d] *Romans* appointed three men, namely [a] *Sp. Poſthumius, Ser. Sulpitius, A. Manlius*, to goe to *Athens*, and other *Grecian* cities, there to peruſe the *Grecian* lawes: to the intent that at their returne, both a ſupply might be made of thoſe lawes that were wanting in *Rome*, and the other which were faultie, might thereby be rectified and amended. At the returne of thoſe three men, the *Conſuls* were depoſed, & both their authority and enſignes giuen vnto [b] ten men newly elected for the gouerment of the ſtate, and were thence called *Decemviri*. The firſt elected into this Decemuirat were, *Ap. Claudius, T. Genutius, P. Sextius, Sp. Veturius, C. Iulius, A. Manlius, Ser. Sulpitius, P. Curiatius, T. Romulus, Sp. Poſtumius*. All of them ſuch as had borne the office of a *Conſul*. The lawes which they brought from *Athens* were written at firſt in ten tables of braſſe: afterward two other tables were added, at which time thoſe lawes began to be knowne and diſtinguiſhed from others by the name of *Leges 12 tabularum*. And according to thoſe lawes iuſtice ever after was adminiſtred to the *Romane* people: at firſt by theſe ten men appointed therevnto, whoſe authority was as large euen as the *Kings* and *Conſuls* in old time, only it was annuall, one of them only had the enſignes of honor carried before him; one alone had the authoritie of conuocating the Senate,

[d] Feneſt. de magiſt. Rom. cap. 14.
[a] Roſin. lib. 7. cap. 19.
[b] Lipſ. Reg. Leg.

confirming their decrees, and the diſcharge of all ſtate buſineſſes. [e] The other did little differ from private men in their habit; only when the firſt had ruled a ſet time, the others ſucceeded by turnes. This kind of gouerment did not continue long in *Rome*, for in the third yeare all their power was abrogated, becauſe of their tyranny and oppreſſion vſed by them towards the Roman people.

[e] Roſin. ant. Rom. l. 7. c. 19.

CAP. 11.

De Interregia poteſtate.

AFter the death of *Romulus* [f] the *Senators* diuided themſelues into ſeuerall companies called *Decuriæ*, committing the gouerment of the kingdome to that *Decury*, that is, to thoſe ten men, vpon whom the lot fell, calling them the *Interreges*: where wee muſt knowe, that theſe ten did not rule altogether, but each man ruled for the ſpace of fiue daies, whence [g] *Roſinus* calleth this magiſtracie *Magiſtratum quinqueduanum*. After that fiue daies gouerment had paſſed through the *firſt*, then did they go to lots to haue a ſecond *Decury* choſen, and ſo a third, &c. This office of an *Interrex* remained euē in the *Conſuls* time, ſo that if by ſome extraordinary occaſion the *Conſuls* could not bee created [h] then they choſe one, to whom alone they committed the whole gouerment of the kingdome, and him they called *Interregem*.

[f] Dion. Halic. l. 2.

[g] Roſin. lib. 6. cap. 16.

[h] Alex. Gen. dier. l. 5. c. 6.

CAP. 12.

De Dictatore.

WHenſoever the *Romans* found themſelues encombred with dangerous wars, or any other eminent dangers, they preſently choſe a *Dictator*, to

to whom alone was committed the authority and rule of the whole kingdome, differing from a King only in reſpect of his name, and the continuance of his office. Touching his name he was ſo called, *quoniam dictis eius parebat populus.* His office continued but ſix months, and at the expiration thereof, if need required, hee was choſen againe for another ſix months. He was alſo called [i] *Populi Magiſter*, in as much as none could make their appeale from him vnto the people. As ſoone as himſelfe was eſtabliſhed in his office, he choſe a ſubordinate officer whom he called [k] *Equitum Magiſter*: his authoritie much reſembled his, whom they called *Vrbi Præfectum*: for as the *Præfectus vrbi* in the abſence of the king, ſo this *Magiſter Equitũ* in abſence of the *Dictator* had full and vncontroleable authoritie of doing what he would.

[i] Pighius in Tyran.

[k] Stadius in Flor. l. 1. c. 11.

Cap. 13.

De Tribunis militum.

THeſe [l] military *Tribunes* were of two ſorts. The one had all power and authority, which belonged vnto the *Conſuls*; and thence were called *Tribuni militum conſulari poteſtate.* The occaſion of them was this: The protectors of the commons called *Tribuni plebis*, did earneſtly labour that the commonalty might be made as capeable of the conſular dignity as the Nobilitie: [m] This was followed ſo hot, that in the end though the Nobilitie would not grant them way vnto that dignity vnder the name of *Conſuls*; yet in effect they would grant it them. Namely the *Conſuls* ſhould be depoſed, & in their ſteed other magiſtrates ſhould be choſen; part out of the Nobility, part out of the commonalty, who though they were not called *Conſuls*, but *Tribuni* yet were they of *Conſular* authoritie: by which they were diſtinguiſhed from the other ſort of Military *Tribunes*, who had power and authority only in matters military, and were knowne

[l] Roſin. ant. lib. 7. c. 20.

[m] Roſin. ibid.

knowne by the name of *Tribuni militum* without any addition. [n] Sometimes there was one of these three words prefixed, *Rutuli* or *Rufuli*, *Suffecti* and *comitiati*; not thereby to intimate vnto vs any distinction of office or place, but to signifie their manner of election. For if they were chosen by the *Consuls*, then were they called *Tribuni Rutuli*, or *Rufuli*, because they had their authority confirmed vnto them by vertue of an act or law preferred by *Rutilius Rufus*, when he was *Consul*. If they were chosen by the souldiers themselues in their campe, then were they called *Tribuni suffecti*, that is, *Tribunes* substituted or put in the place of another. Whence we may coniect, that the souldiers were not permitted to make any election, but in time of need, when their former *Tribunes* were taken from them by some violent or vnnaturall death. The last sort called *Comitiati*, were so called because they were chosen by the Roman assemblies, called in Latine *Comitia*. They were named *Tribuni*, because at the first institution of them (whether we vnderstand the Consular *Tribunes*, or this latter sort) there were but three of each. In processe of time notwithstanding I finde the number not only of those *Consular Tribunes*, [o] but of those other also to haue beene encreased to six, accordingly as the thousands in a legion were multiplied. These latter sort of *Tribunes*, in respect of their military discipline, which was to see the souldiers being faultie to be punished, we may english **Knights Martiall**: In respect that their authoritie was ouer foot men only, we may english them **Seriants maior**: only this difference there was, to every thousand of foot-men in any legion, there were as many military Tribunes vnder their chiefe commander called *Imperator*. But in our englisth armies there is but one **Seriant maior**, who alone vnder the L. Generall hath command ouer all the foot-men, bee there never so many thousands.

[n] Alex. Gen. dier. lib. 6. c. 18

[o] Rosin. antiq. lib. 7. cap. 20.

CAP.

Cap. 14.

De Triumviris Reipub: conſtituenda.

THis tyranny of the *Triumviratus* beganne by a conſpiration betweene *Auguſtus Caſar*, *Antonius*, and *Lepidus*. For theſe three vnder the pretence of reuēging *Iul. Caſar* his death, obtained chiefe power and authority for the ſpace of fiue yeares throughout *Rome*, [p] pretending that they would ſettle the commonwealth, which at that time by reaſon of *Iul: Caſars* death was much out of order. Thoſe fiue yeares being expired, they refuſed to reſigne their authority, exerciſing exceſſiue crueltie towards all the *Romans* of what degree ſoeuer. [q] This kinde of gouerment remained but ten yeares, neither ever were there any other then thoſe three aboue named. They had power to enact any new law, to reverſe any former Act, without the conſent of the *Senate*, or commons. They might proſcribe and baniſh any *Roman* at their pleaſure; and as often as we read *de Triumviratu* ſimply without any adiunction, or *de Triumviratu Senatus legendi*, wee are to vnderſtand it of this, though ſome vpon vnſure grounds doe diſioine them.

[p] Feneſt. de magiſt. Rom. cap. 2.

[q] Suet. Octav. Aug. cap. 27.

Cap. 15.

De Quæſtoribus erarij.

THis office of the *Quæſtors* ſeemeth not vnlike to a publique Treaſurers, which collecteth the ſubſidies, cuſtomes, mony, yearely revenues, and all other paiments belonging to any ſtate or corporation. And hence [r] *quoniam publica pecunia quarendæ præpoſiti erant*, they took their name *Quæſtores*: Sometimes they are called *Quæſtores Urbani*, to diſtinguiſh them from the provinciall *Quæſtors*, which

[r] Feneſt. de Rom. magiſt. cap. 3.

which bare office in the *Roman* Provinces: ſometimes they are called *Quæſtores erarii*, to diſtinguiſh them from thoſe that were called *Quæſtores parricidii*, or *rerum capitalium*, of which you may ſee more in the tract *de prætoribus*. [s] Laſtly they were called *Quæſtores erarij*, to diſtinguiſh them from the *Tribuni erarij*, that is, thoſe Martial treaſurers, or Clarks of the band, which did receaue the ſouldiers pay from theſe citty treaſurers, and ſo pay it to the ſouldiers. The office of thoſe city-Treaſurers (then being at firſt but two) was to receaue all the city accounts; to disburſe at all occaſions of publique expenſes; to take an oath of him that the ſouldiers had ſaluted by the name of *Imperator*, that he had truely informed the *Senate* both of the number of enimies ſlaine, as alſo of the number of citizens loſt; otherwiſe he might barre the Emperour of his triumph. Moreouer whatſoeuer ſpoiles were taken in warre, they were deliuered vp vnto theſe city-*Quæſtors*, & they ſelling them, laid vp the mony in the great Treaſure-houſe called *Ædes Saturni*.

[s] Sig. de iure Rom. l. 2. c. 8.

Cap. 16.

De Tribunis Plebis.

THE [t] *Roman* commonalty finding themſelues oppreſſed by the wealthier ſort, departed vnto the *Aventine* mount, threatning the *Roman* nobility, that they would forſake their city, and neuer againe aduenture themſelues in warre for the defence thereof, vnleſſe they did finde ſome releaſe and eaſement, from thoſe exceſſiue payments of vſe & intereſt vnto their creditours: yea beſide the remiſſion of their preſent debts, before they would returne vnto their city againe, they would haue certaine magiſtrates choſen, which ſhould be [u] *Sacroſancti*, that is, ſuch as might not be hurt or violently vſed, not ſo much as in words: and if any had violated that law, whereby they were made *Sacroſancti*

[t] l. Roſa in Epit. rerum, Rom.

[u] Roſin. ant. l. 7. c. 23.

ſancti, then was he accounted *homo ſacer*, that is, an excommunicate perſon, or ſuch an one whoſe ſoule ſhould be vowed vnto ſome God; inſomuch that if any after had killed him, he ſhould not be liable vnto iudgement: [x] *quoniam illius anima diis devota amplius humani commercii non ſit.* To thoſe [y] magiſtrats the protection of the commons was committed who becauſe they were at firſt choſen out of the *Military Tribunes*, therefore did they alwaies retaine the name of *Tribunes*, being called that they might be diſtinguiſhed from the others, *Tribuni Plebis*, Protectours of the commons. At the firſt inſtitution of them they were in number but two, as [z] ſome haue thought: [a] Others ſay fiue: afterward (as it is yeelded by all writers) they increaſed vnto ten. Their authoritie at firſt conſiſted chiefly in this, that they had power to hinder any proceedings in the *Senate*, which they thought might proue preiudiciall vnto the commons; ſo that they had not authority to enact any new decrees, as afterward by abuſing their authority they did. [b] *Sed eorum autoritas magis in intercedendo, quàm iubendo.* And hence was it that in old time theſe protectours of the commons were not permitted to come into the *Senate*: but [c] they ſate without at the dore, whether whatſoeuer was determined within the Senate was ſent vnto them, to be puruſed by them, and if they did approue it, then did they ſubſcribe a great *Roman* T, being the firſt letter of this word *Tribuni*. [d] The houſes of theſe Tribunes ſtood open night and day, as a common refuge or place of ſuccour for all that would come; [e] neither was it lawfull for them to bee abſent out of the towne one whole day throughout the yeare.

[x] Alex. Gen. dier. l. 6. c. 14.
[y] Roſin. ant. lib. 7. c. 23.
[z] Pigbius in ſuo Tyrannifug.
[a] Pomp. Læt.
[b] Stadius in Flor. lib. 3. c. 2.
[c] Pigh in ſuo Tyrannifug.
[d] Roſin. ant. Rom. l. 7. c. 23.
[e] Pigh. in ſuo Tyrannifug.

CAP. 17.

De Ædilibus, & Præfecto annonæ.

WE may read of three ſorts of *Roman* magiſtrats called *Ædiles*; the two firſt had their names *ab ædibus curandis*, hauing in their charge to repair both

both temples and priuate dwelling-houſes which belonged vnto the citie. The firſt ſort were called *Ædiles curules, à ſella curuli*, from the chaire of ſtate, wherein it was permitted them to ride; and theſe were choſen [f] out of the *Senators*. The ſecond ſort were called *Ædiles plebeij*, and they were added vnto the former at the earneſt ſuit of the commons, they being to be choſen out of them. Where wee muſt note that they were not ſo added, that both ſorts ſhould rule at one and the ſelfe ſame time, [g] but that the *Curules* ſhould rule the one yeare, and the *Plebeij* the other. To theſe *Ædiles* it did belong, beſide the reparation of temples & priuate houſes, to looke vnto the weights and meaſures in common ſale: for they had power to examine *Actiones redhibitoriæ*, that is, ſuch actions, by vertue of which he that had ſold any corrupt or ſophiſticated wares, was conſtrained to take thē againe. Moreouer they had the charge of the publique conduit or water-conueiances, of proviſion for ſolemne plaies, &c. Of the third ſort there were alſo two, who were in a manner Clarkes of the Market. [h] For vnto them belonged the looking vnto the victuals ſold in the market, and corne: Whence they were called by them *Ædiles cereales*; and [i] by the *Greekes* ἀ̓γορανόμοι. This office, for ought that can bee collected out of thoſe that treat of it, differeth but little from his, whom the *Romans* called *Annonæ Præfectum*; onely this, the *Ædiles Cereales* were *magiſtratus ordinarij*, the *Præfectus, extraordinarius*, namely, [k] ſuch as was choſen onely in time of extraordinary dearths; he hauing for that time larger authority then thoſe ordinary clarkes of the market. For as it appeareth by *Roſinus* in the place now quoted, this *Præfectus* had power of himſelfe, to examine all ſuch caſes or queſtions as ſhould ariſe touching the dearth: as ſuppoſe the hoarding of corne, foreſtalling the market, &c.

f Philet. in l. 2. Cic. epiſt. fam. 10.

g Alex. Gen. dier. l. 4. c. 4.

h Alex. Gen. ibid.

i Pighius in ſuo tyrannif.

k Roſin. antiq. lib. 7. cap. 38.

CAP. 18.

Cap. 18.

De Triumviris.

BEſide that *Triumviratus Reip. conſtituendæ*, of which we ſpake before, there were divers kindes of *Triumvirates*; namely *Triumviri capitales*, three high Shireiffes, who had the charge of priſons, and were to ſee malefactors puniſhed: for which purpoſe eight *Lictors* did attend them. There were alſo [l] *Triumviri Menſarij*, three men, we may tearme them Bankers, who had authority to pay out of the common treaſurie poore mens debts. Sometimes there were appointed fiue to this office, whence they were called alſo [m] *Quinqueviri Menſarij*, both being called *Menſarij* from *Menſa*, a table, whereon they told their mony. Another ſort of *Triumviri* there were appointed to preſſe ſouldiers, whence they were called *Triumviri conquirendi iuvenes idoneos ad arma ferenda.* We read alſo of certaine *Triumviri*, which were elected as chiefe captaines to guid and conduct the people in tranſplanting colonies; and thence were they named *Triumviri Colonia deducendæ*: but ſometimes for this purpoſe they elected ſeven, ten, or twenty, & ſo named them *Quinqueviri, Septemviri, Decemviri*, and *Vigintiviri Coloniæ deducendæ.* Three other ſorts of *Triumviri* remaine, which were officers of ſmall account; as the *Triumviri monetales*, three Maſters of the Mint, who thence were called *Triumviri A. A. A. F. F.* that *Auro, Argento, Ære, Flando, Feriundo*; for they had the charge of coining the mony. Secondly, *Triumviri valetudinis*, Three Peſt-men, which were to overſee thoſe that lay infected with any contagious ſickneſſe. Thirdly, [n] *Triumviri nocturni*, three Bell-men which were to walke the towne at night, and to giue notice of fire.

[l] Alex. Gen. dier. l. 3. c. 16.

[m] I. Camerar. in orat. Cic. pro Flacco.

[n] Alex. Gen. dier. l. 3. c. 16.

Cap. 19.

De Præfectis Ærarij.

Auguſtus Cæſar deſiring for the better ſafety of the citty, to maintaine many bands of ſouldiers, which ſhould alwaies be in readines for the defence of the Citty, deſired of the city an yearely ſubſidie for the maintenance of thoſe ſouldiers; but being denied it, hee built a certaine Treaſure-houſe, which hee called *Ærarium militare*, whereinto he caſt his mony for himſelfe, and *Tiberius*; and promiſed to doe ſo every yeare. Afterward when he ſaw the Treaſurie not to be enriched enough, either by that money which himſelfe beſtowed, or by the contributions of others he appointed that the twentieth part of all inheritances and legacies (except it were to the next of the kin, or to the poor) ſhould fall vnto this Treaſurie. For the charge and cuſtody hereof he appointed three of thoſe ſouldiers, which alwaies attended about him for the ſafegard of his perſon, calling them *Præfectos Ærarij*.

Cap. 20.

De Præfecto Prætorio.

ALL Captaines and Gouernours to whom the rule of any army belonged, were in ancient time called [o] *Prætores*; This word *Prætor* ſignifying then three chiefe officers among the *Romans*: Firſt a *Conſul*; ſecondly a L. chiefe Iuſtice; thirdly, a L. Generall in warre; all of them being called [p] *Prætores, quaſi Præitores quoniam iure & exercitu præibant*. Anſwerable to which threefold acception, this word *Prætorium* hath three ſeverall ſignifications: ſometimes it ſignifieth a Princes palace or mannour houſe; ſometimes a great

[o] Paſcirol. in notitiam imper. orient. c. 5
[p] Pighius in Æquiper. compoſ.

great hall or place where iudgement was wont to be giuen; and laſtly the L. Generall his pauilion in the campe; [q] from which laſt ſignification it is, that thoſe ſouldiers that gaue attendance about that pauilion for the gard of their Captaines perſon, are ſometimes called *Milites Prætoriani*, ſometimes *Cohors prætoria*; [r] and he to whom the ouerſight of theſe ſouldiers was committed was thence called *Prætorio præfectus*.

[q] Aſconius in Verrinam 3.

[r] Fr. Sylv. in Caulam.

Cap. 21.

De Advocato fiſci.

FOR the right vnderſtanding of this office, wee muſt firſt note a difference betweene theſe two words, *Ærarium*, & *Fiſcus*. *Ærarium* was a common treaſury belonging vnto an whole ſtate or corporation, whence all publike and common expences are to be ſupplied. *Fiſcus* was the Kings or Emperours private coffers: it may be engliſhed the **Kings Exchequer**. The keeper thereof was called *Advocatus Fiſci*. There are many other petty offices within the citty, which I haue purpoſely omitted, becauſe there is but ſeldome mention of them in old autors; and as often as they are mentioned, their names doe explaine their office.

Cap. 22.

De præcipuis magiſtratibus provincialibus.

OVer the Provinces at firſt ruled certaine magiſtrats ſent from *Rome*, by commiſſion from the *Roman* Senate, called *Prætores*, whoſe office was to adminiſter iuſtice vnto the Prouinciall inhabitants, yea & if occaſion ſerued, to make war alſo vpon their enimies; & this was the reaſon that the number of the *Prætors* did ſo increaſe alwaies

alwaies, namely accordingly as the number of Provinces did encreaſe. The wars & tumults in the Provinces ſometimes were ſo great, that the *Prætor* was not ſufficient both to manage war & execute iuſtice: whereupon the *Senate* thought fit to ſend another magiſtrate into the Provinces, whō they called a *Conſul*, becauſe properly the managing of war belonged vnto the *Conſul*. So that there were at firſt two ordinary Provinciall magiſtrats, a *Conſul* to manage warre, and a *Prætor*, or L. chiefe Iuſtice to ſit in iudgement. And if theſe two by a ſecond grant from the *Senate* did continue in their office aboue the ſpace of an yeare, then were they called *Proconſules*, & *Proprætores*. But in proceſſe of time this cuſtome was altered. For then none could be *Proconſuls*, but thoſe alone who had beene *Conſuls* in *Rome*; neither could any bee *Propretors*, which had not beene *Prætors* at *Rome*. Their manner being, that the next yeare after the expiratiō of their offices in *Rome*, they ſhould depart into ſome certaine Province, to beare the ſame offices againe, being not called *Conſules* or *Prætores* as before, but [t] *Proconſules* & *Proprætores*; and for this cauſe alwaies, ſo ſoone as the *Conſuls* had beene created, the *Senate* did appoint certaine Provinces for the *Conſuls*, which being appointed, the *Conſuls* did either agree betweene themſelues, who ſhould goe to the one, who to the other; and that was tearmed *comparare provincias*; or elſe they did decide the queſtion by lots, and that was tearmed *ſortire provincias*; howbeit ſometimes the *Senate* did interpoſe their authority, and diſpoſe the ſame. Vnder the Emperours the gouernours of ſome Provinces were appointed by the *Senate*, and the people, and thoſe were called *Proconſules*, and the Provinces, [u] *Provincia Conſulares*; others were appointed by the Emperours, and they were called *Propratores*, and the Provinces *Prætoriæ Provinciæ*. For all this, which hath bin noted touching the Provinciall Magiſtrates, it is almoſt *verbatim* trāſlated out of [v] *Roſinus*. To which we adde this, namely that every *Proconſul* and *Proprætor* did vſually

[t] Alex. Gendier. l. 3. c. 3.

[u] I. Camerar. pro L. Flacco.

[v] Roſin. ant. l. 10. c. 24.

vsually choose a Lieutenāt such a one as should be assistant vnto him in matters of gouernment; whom they called *Legatum*: So that this word *Legatus* signified three seuerall *Magistrats* amongst the *Romans*, two whereof may bee proued out of [y]*Sigonius*: first that it signified such a Lieutenant, or L. Deputy vnder a *Proconsul*, or *Proprator* in a Prouince; secondly, that it signified such a one as is imployed in the deliuery of a message or embassage from one Prince or State to another; we commonly call them Embassadors. Lastly it signified a Lieutenant or chiefe Captaine in warre, whose place was next vnder the L. Generall. His office at the first institution was not so much to rule or command, as to assist the L. Generall in councell; whence *Polybius* commonly ioyneth these two together, πρεσβευτὰς καὶ συμβούλους, that is, *Legatos & Consiliarios*, that the latter word might expound the former. *Lipsi. de mil. Rom. l. 3. dial. 11.* Moreouer euery *Proconsul* and *Proprator* had with them certaine Treasurers, called *Quæstores Provinciales*. These prouinciall Treasurers [a] were chosen by the *Roman* people commonly, namely such a number as the number of prouinces did require. After the election, they betweene themselues did cast lots who should goe vnto the one, who vnto the other prouinces: [b] sometimes extraordinarily by vertue of speciall Act or decree, this or that speciall man hath obtained this or that Prouince without any lottery. By the way wee must note, that all Prouinciall *Quæstors* could not be called *Proquæstores*, as all Prouinciall *Consuls* and *Prators* were called *Proconsules* and *Propratores*. [c] For these only were called *Proquæstores*, which did succeed these prouinciall *Quæstors*, when they did either die in their office, or depart out of the Prouince, no successor being expected from *Rome*: at which times in was lawfull for the *Proconsul*, or *Proprator* to choose his *Proquæstor*. Moreouer there were beside these *Legati & Quæstores* [d] other military officers; such as are the *Tribuni militum*, *Centuriones*, *Præfecti*, *Decuriones*, together with other inferior officers, as their Secretaries, Bayliffs, Cryers, Seriants, & such like.

x Pomp. Læt. de mag. Rom.

y Sig. de iure prov. l. 2. c. 2.

a Sig. de iure Proul. 2. c. 3.

b Sigon. ib

c Rosin. Ant Rom. l. 7. c. 45

d Sig. de iurè Proul. l. 2. c. 2.

LIB. 3. SECT. 3.

Of the Roman Puniſhments.

CAP. 1.

Supplicia, Mulcta, Lex Ateria, Tarpeia. Ego ei vnum ouem mulctam dico &c.

TOuching the military puniſhmẽt, which belonged to military diſcipline, it ſhall be treated of in its proper place. Here only of the Citty diſcipline, and the vſuall puniſhments exerciſed therein, which we may diuide thus. Puniſhments publikely inflicted on malefactors are either *Pecuniarie mulcts*, or *Corporall puniſhments*; the *Pecuniary mulcts* were of two ſorts: either an appointed ſumme of mony was required of the party guiltie, and then it was called *Mulcta*: or his whole eſtate was ſeaſed on, & then it was tearmed a *Confiſcation* of his goods. The *Mulct* was twofold, the one tearmed *Mulcta ſuprema*, the other *Mulcta minima*. Of both theſe [a] *Gellius* writeth thus: *Suprema mulcta erat duarum ouium, & triginta boum, pro copia ſcilicet boum, & penuria ouium: ſed cùm eiuſmodi mulcta pecoris, armentiq; à magiſtratibus dicta erat, adigebantur boues oueſq; alias pretij parui, aliàs maioris, eaq; res faciebat inaequalem mulctæ punitionem. Idcirco poſtea lege Ateria conſtituti ſunt*

[a] Gellius, l. 11.

sunt in oues singulas æris deni, in boues æris centeni: Minima vero mulcta fuit ouis vnius. Moreouer as he obserueth in the same place, whensoeuer the Magistrat did set a fine or Mulct vpon the offenders head, hee vsed the word *Ouis* in the Masculine gender: as, *Ego ei vnum ouem mulctam dico, &c.* The law which *Gellius* calleth *Ateriam legem*: [b] *Festus* calleth *Legem Tarpeiam*, because *Aterius* enacted it, when he was Colleague or fellow-Cõsul with *Tarpeius*. Likewise we may take notice of the clemency vsed in those times. It was provided by the law, that seeing there was great plenty of Oxen then of Sheepe, and to be fined an Oxe, was not so much as to be fined a Sheep, therefore the Magistrate pronouncing the Fine [c] *Bouem prius quàm Ouem nominaret, vt innotesceret Romanis mitiores semper pœnas placuisse.*

b Festus in voce peculat.

c P in. lib. 18. cap. 3 It. Alex. ab Alex lib. 3. cap. 5.

Cap. 2.

Capitis diminutio, maxima, media, minima, Aqua, & Igni interdici. Proscriptio, Lata fuga, Deportatio προγράφειν, σκηλιτεύειν, Ærarij, In ærarios relati, Religatio, Lanij cum tintinnabulis.

THE corporall punishments are either such as were *Capitall*, depriuing a man of his life: or *Castigatory*, such corrections as serued for the humbling and reforming of the offender, not for the destroying of him. *Capitall* punishments were sometimes taken in a ciuill acception, for the losse of freedome, which the *Romanes* called *Capitis diminuitonem*, Disfranchising, because in euery Free-man thus disfranchised, one head of the corporatiõ was as it were cut off: sometimes it is taken for the losse of ones life, & this they called *Vltimum supplicium*. That disfranchising called *Capitis diminutio*, was [d] threefold. *Maxima, Media, & Minima.* The least degree was, when the *Censors* pulled a man frõ

d Rosin. ant. Rom. l. 9. c. 3.

an higher Tribe, downe to a lower and leſſe honorable, or when by any cenſure they diſabled a man from ſuffraging, or giuing his voice in the publike aſſemblies: ſuch as were thus in the laſt manner puniſhed, were tearmed *Ærarij*, and *In ærarios relati*: [e] *quia omnia alia iura ciuium Romanorum, præterquam tributi & æris conferendi amiſerunt.* This kinde of puniſhment, as it may ſeeme, was many times exercíſed for irreuerend geſture, or ſpeeches vſed by ſuch as were queſtioned by the *Cenſors*. Three ſeuerall examples are noted by [f] *Gellius*; the laſt is this: *P. Scipio. Naſica*, and *M. Pompilius* being *Cenſors*, taking a view of the *Roman* knights obſerued one of them to haue a leane ſtarueling horſe, himſelfe being fat, and in good plight, whereupon they demanded the reaſon why his horſe was ſo leane, himſelfe being ſo fat: his anſwere was. *Quoniam ego, inquit, me curo, equum Statius meus ſeruus. Diminutio media* was an exilement out of the Citty, without the loſſe of ones freedome: [g] It was commonly ſet downe in this forme of words: *Tibi aqua & igni interdico.* And it ſeemeth by [h] *Cælius Rhodiginus*, to bee all one with that kinde of baniſhment, which the *Romans* called *Proſcriptio*, though it cannot be denied, but that *Proſcriptus* ſome times ſignifieth only ſuch a one, whoſe goods are ſet at ſale to ſatisfie his creditors, becauſe hee will not appeare in the Court, the forme thereof is thus. The Creditours hauing obtained leaue of the Lord chiefe Iuſtice to proceed in this maner, they committed the ordering of the ſale to one principal Creditour and he was called ſimply *Magiſter*; and he in the name of all the reſt, ſolemnely proclaimed in the chiefe places of the Citty in forme as followeth. [i] *Ille debitor noſter in eiuſmodi cauſa eſt, vt bona eius diuendi debeant, nos creditores patrimonium eius diſtrahimus: quicunq; emere velet, adeſto.* But for the reconciling of both opinions, we may tearme the firſt to be *Proſcriptionem hominum:* the other *Proſcriptionem bonorum:* which diſtinctiō being not obſerued, breedeth a great confuſion in the Authors that treat of this puniſhment; and becauſe

[e] Sig. de iure Rom. l. 1. c. 17.

[f] A. Gell noct. Attic. lib. 4. cap. vlt.

[g] Camerar. in orat. Cic. pro Muræn.

[h] Cœl. Rhod. lib. 15. cap. 17.

[i] Roſin. ant. lib. 9. cap. 12.

becauſe both was performed by ſolemne and publique proclamations, hence the name *Proſcriptio* agreed as well to the goods confiſcated, as to the perſons baniſhed: according to that, [k] *Quoniam eorũ nomina in publico ſcribebantur, hinc proſcribi dicebantur.* Hence the [l] *Grecians* vſe not only the word προγράφειν, but alſo γραπτύειν, to ſignifie the act of *Proſcription*, becauſe they wrought in a publique pillar the faults and offences of ſuch as were thus baniſhed. But to proceed without farther digreſſion. *Diminutio maxima* was the loſſe both of the city, & the freedome; & this I take to be the ſame which in other tearmes was called *Lata fuga*, or *Depotratio*, namely a perpetuall exilement: all ſtanding in oppoſitiõ to that other kinde of baniſhment, called *Relegatio*, which was the exilement [m] only for a ſeaſon, happily for fiue yeares &c: ſee *C. Rhod. lib. 10. cap. 5.* though I deny not but that *lata fuga* was ſo called not onely in reſpect of the duration of time, it being a perpetuall baniſhment: but alſo in regard of the places ſo generally prohibited, [m] for he that was thus baniſhed, was tied and limited to one peculiar country, all other places in generall being forbidden him. Thoſe puniſhments that deprined of life in ordinary vſe, and of which there is moſt frequent mention in *Roman* Authors, are theſe which follow. *Furca Crux, Carcer, Culeus, Eculeus, De rupe Tarpeia deiectio, Scala, Gemoniæ, Tunica. Damnatio in gladium, in ludum, ad beſtias*: In generall we are to note, that the execution was without the gates of the city, to prevẽt the noyſomnes which ſuch abundance of bloud might occaſion; [n] for which reaſon the executioner dwelt without the City. Likewiſe thoſe that were adiudged to death, when they went to the place of execution, a certaine little bell was tyed about them, that by the ſound thereof, the people might bewa e of touching the condemned perſon, becauſe the very toueh of him was counted a kinde of pollution: this [o] *Turnebus* obſerueth out of *Zonaras*: and from hence the executioners are called [p] *Lanij cum tintinnabulis*. And for this reaſon [q] it was, that a little bell

[k] Fr. Matur. in Philip. orat. 5.

[l] Suidas in voce γράφ.

[m] Adde quod edicto quamvis immite minaxq; Attamẽ in pœnæ nomine lene fuit. Quippe relegatu, non exul dicor in illo. Ovid. de triſt. l. 2. Eleg. 1.

[m] Tholoſan. ſyntag. iur. vniuerſ. lib. 31.

[n] Plaut. Caſ. a 6.

[o] Turn. adv. lib. 11. cap. 21.

[p] Plaut. pſeud. 1. 3.

[q] Roſin. ant. l. 10. cap. 29.

bell and a ſcourge was hanged vp in the hindmoſt part of the chariot, wherein the Lord generall did ride in his triumph, a publike officer which rodde with him in the ſame chariot, now & then plucking him behind, & bidding him looke back, vſing this ſorme of words,[s] *Reſpice poſt te, hominem memento te*, that is, Sir looke behind you, remember your ſelfe to bee but a man. For the ſight of the ſcourge and bell ſerued to put him in minde, that notwithſtanding, his preſent triumph and acclamations his after-miſeries might be ſuch, that he might be puniſhed not onely with whipps, but euen with death it ſelfe.

[s] Tertul. Apolog. cap. 33.

CAP. 3.

Furca. Furcifer Supplicium more maiorum, & beſtia.

AVncient autors which do write of the *Roman furca*, do rather mention it, then explaine it, but if we diligently obſerue what they ſpeake of it, we ſhall finde the vſe thereof to haue beene three fold. The firſt ignominious. which [a] was when the maſter forced the ſeruant for ſmall offences *furcam circa vrbem ferre*, to carry this *furca* vpon his ſhoulders about the city, confeſſing his fault and admoniſhing others to beware of the like offence, and hence ſuch a ſeruant was afterward called *furcifer*; and here I thinke was vſe of thoſe *ſtimuli* or goades, whereof I ſhall ſpeake more in the chapter following; namely that when the party thus to be puniſhed dragged back, and ſhewed himſelfe vnwilling, then did the executioner prick him forward with theſe kinde of goades. The ſecond ſort was penall, when the party hauing the *furca* on his neck, was ledde vp and downe the Cirque or ſome publike place, and on the way to bee whipt, but not vnto death; [c] thus *C. Matienus damnatus ſub furca diu virgis cæſus erat, & ſeſtertio nummo venit.* He was after-

[a] Iſidor. orig. lib. 10.

[b] Plutarch. in Coriol.

[c] Epit. Liuij dec. 6. lib. 5.

afterward sold, and therefore died not vnder the punishment[a] The third sort was penall to, but in an higher degree; namely, when the malefactor hauing his head fastned to the *furca*, was whipt vnder it vnto death; and this was by a peculiar name called [d] *supplicium more maiorum*. This yet differed from that beheading with an axe which was in vse among the *Romans*, and called by the *Grecians* πελεκισμὸς from πέλεκυς signifying an axe or hatchet; it differed I say from this, because howsoeuer there were in this σταυρῶ προσδέσις, a tying the party to a stake or post, and also μαστίγωσις, a whipping, in both which it agreed with the former puuishment, yet herein they differed, because in the former they were whipped vnto death, in the latter they were after their whipping beheaded with an axe, as appeareth by the [e] execution of *Antigonus* the King of the Iewes. But to proceed in the description of the *furca*, the forme thereof I take to be like the beame of a wayne vnto which the yoakes are fastned; it resembleth a forke, & the *furca* is called ξύλον διπλοῦν, δικροῦν, δέδυμον, *id est*, *lignum duplex, bicornutum, geminum*, in english a forked piece of timber; there is no such piece throughout the whole wayne as the forme of waynes is in these daies, but only the beame thereof [f] *Plutarch* treating of the *furca*, saith that it is, ξύλον ἁμάξης ᾧ τὸ ῥυμὸν ὑπερείδουσι, that is, a piece of timber about the wagon or wayne, wherewith they vpheld the beame; and he addeth, that what the *Grecians* call ὑποστάτην & στήριγμα, that the *Romans* call *furca*: now *Hesychius* describeth στήριγμα to be τὸ δικροῦν ὅ πρ ὑποτιθέασι τῷ τῆς ἁμάξης ζυγῷ, that is, the forked piece of timber, which they put vnder the yoak of the wayne; correct *Plutarch* by *Hesychius*, & for τὸν ῥυμὸν reade τὸ ζυγὸν, & you haue in both the description of the beame in the wayne. Some thinke that *Plutarch* compareth the *furca* to a certaine forked peice of timber, wherewith the wayne was vpheld whiles it was vnloaded, but how this canstand with *Hesychius* his description of στήριγμα, I am yet to learne; notwithstanding if we admit this interpretation, that which

d Sueton. in Ner. 49.

e Dio. lib. 49.

f Plut. in Coriol.

which I would hence inferre, is rather confirmed, then any way weakened: namely that the forme of the old *Roman furca* was forked; neither do there appeare any testimonies so evident to me, as to persuade that among the auncient *Romans* any other was in vse. True it is, that in after ages the forme thereof was the very same with our gallowses which are now in vse, and this happily beganne, when the vse of crucifying was interdicted, which interdiction we read first to haue taken place in [g] *Constantines* time.

[g] Sozom. eccles. hist. lib. 1. cap. 8.

Cap. 4.

Crux. Seruile supplicium. Titulus.

CRucifixion hath beene a punishment in auncient vse among the *Romans*, it was abrogated by *Constantine*. It was a death that commōly seruants were sentenced vnto, seldometimes free-men; whence it is many times noted out by the name of *seruile supplicium* by *Tacitus*, yet [h] sometimes freemen though of the baser sort, and for notorious offenses were adiudged to this kind of death: nay a cleare example hereof we haue in that [*] Guardian which *Galba* crucifyed, for poysoning his ward; for the Guardian calling for the benefit of the law, and avouching in his plea, *That he was a Roman cittizen*. *Galba* as if he would allay his punishment with some comfort and honour, commanded the crosse already made to be changed, and another to be rared farre higher then the ordinary, and the same laid ouer with a white colour. Those which were thus to be punished, they bore their crosse vpon his shouleers to the place of execution. [i] *Malefici cùm ad supplicium educuntur, quisq; suam effert crucem.* [k] *Artemidorus* is as plaine [*] Ἔοικε γὰρ καὶ ὁ σταυρὸς θανάτῳ, καὶ ὁ μέλλων προσηλοῦσθαι, πρότερον αὐτὸν βαστάζει, that is. The crosse is like vnto death, and he which was to be crucified did first beare it. The party that suffered this kinde of death was first stripped

[h] Vid. Lisp. de cruce. lib. 1. cap. 11.

[*] Suet. Galb. 9.

[i] Plut. de sera numinis vind.

[k] Vid. Lips. de cruce. l. 2. c. 5.

ped of all his clothes, for he suffred [l] naked; then was he fastned vnto the crosse and that commonly with nayles, the Greek word προσήλωσις clearely evinceth as much, we may render it *Clauifixio*. Now that the equity of the proceeding might clearly appeare to the people, the cause of his punishment was written in capitall letters, hence [m] *Dio* speaketh of a servant dragd to the crosse μετὰ γραμμάτων τὴν αἰτίαν τῆς θανατώσεως δηλούντων, that is, with letters declaring the cause of his death. This inscription was called αἰτία *Mat. 27. 37.* It was also called τίτλος *Ioan. 19. 19.* from the latine word *titulus* vsed in the same sense. And sometimes ἐπιγραφὴ τῆς αἰτίας. *Marc. 15. 26.* or simply ἐπιγραφὴ *Luc. 23. 38.* [n] *Tertullian* & [o] *Suetonius* calleth it *elogium*. The like kinde of publishing the cause, either by an inscription, or by the voice of a common crier was not vnusuall in other capitall punishments; as *Attalus* the Martyr was led about the Amphitheatre, πίνακος αὐτὸν προάγοντος, ἐν ᾧ ἐγέγραπτο ῥωμαιστὶ, ὅτι ἐστὶν Ἄτταλος ὁ χριστιανός. i. A table being carried before, in which it was written in latine, *This is Attalus the Christian*. That of [q] *Suetonius* his is not much vnlike. *Patremfamilias detractum è spectaculis in arenam, canibus obiecit, cum hoc titulo: Impiè locutus Parmularius.* What is meant in this place by *Paterfamilias* and *Parmularius*, hath been already declared in the chapter of Fencers. Moreouer such as were to be crucified, they were also whipt before they suffered. That same *horrendum carmen* clearely evinceth as much; the parts whereof are two first: [r] *Verbera intra aut extra pomerium*, secondly: *Arbore infelici suspendito*. This whipping was sometimes *sub furca*, for this [*] *Valerius* is plaine. *Cùm servum suum verberibus multatum sub furca ad supplicium egisset*: sometimes *ad columnam*. *Artemidorus* is cleare in this, προσδεθεὶς κίονι, πολλὰς ἔλαβε πληγάς, that is, being tied to the pillar, hee receaued many stripes. Happily [s] *Plautus* alludeth to the same.

----Abducite hunc
Intrò atq; adstringite ad columnam fortiter.

l Artemidor lib. 2. 58.
m Vid. Lips. de cruce l. 2. c. 11.
n Apol. cap. 2.
o Sueton. in Calig.
p Euseb. eccl. hist. lib. 5. c. 1.
q Sueton. Domit. cap. 10.
r Liv. lib. 1.
* Valer. Max. lib. 1. cap. 7.
s Plaut. Bacch.

Yea the auncient [r] *Fathers* say that our blessed Saviour was thus whipt: touching the place or manner the scripture is silent, only that he was whipt it testifieth, & that with scourges. Τὸν δὲ Ἰησοῦν φραγελλώσας παρέδωκεν ἵνα σταυρωθῇ. *Mat. 27. 26* This fore-whipping I take to be a matter vnquestionable, but that they should be whipt on the way towards the place of execution, I much doubt; much more that they should be goaded on the way with pricks and goads by the Executioner. That there was [u] *stimuleum supplicium*, a kinde of punishment with pricks and goades is euident; and hence commeth that phrase *Stimulo fodere*; and hence that other phrase of **Kicking against the prickes**. Parrallell to which is that of *Plaut. Truc. 4. 2. Stimulos pugnis cædere.* But this kinde of punishment I take to haue beene exercised only by Masters towards evill servants; and that not as præparatory to death, but for their reformation in future times: whence by way of contempt, a servant thus handled was tearmed [x] *Carnificinum cribrum*, because he had his backe so boared with those pricking instruments, that it looked like a sieue full of holes. Otherwise, if we vnderstand it as a punishment imposed by publique authoritie, we may say, that thereby is denoted a certaine punishment, exercised towards theeues in time of their examination, that by the pricking and goading of them, the truth might bee confessed; [y] for to that ende theeues were thus tortured, and thence were they called *Centrones*, from κέντρον, *Stimulus*. Lastly we must remember that these three words *Furca*, *Crux*, and *Patibulum*, are many times vsed promiscuously, signifying the whole crosse on which malefactors suffred: but in strict propriety of speech, *Furca* signifieth that forked instrument of which we treated in the former chapter: *Crux*, that erect part of the crosse standing vpright: and *Patibulum* the thwart peece of timber vpon the top of the crosse: yet sometimes also *Patibulum* is taken for the *Roman Furca*, whence *Patibulatus* and *Furcifer* are vsed as words equivalent, and in both senses it may

[r] Prudentius Hieronym. Beda. vid Lipſ. de cruce. l. 2. c. 4.

[u] Plaut. Mil. 2. 6.

[x] Plaut. Most. 1. 1.

[y] Cœl Rhod. lect. antiq. lib. 10. cap. 5.

may borrow its name from *Pateo*, to lie open; because as the malefactors hands were spread abroad being fastned to the thwart peece of timber vpon top of the crosse: so were they likewise spread abroad vnder the *Furca*, his two hands being tyed to the two forked ends thereof.

CAP. 5.

Carcer, Ergastulum Tullianum, Robur. Malamansio, Nervus, Collum. bar, Numella, Codex.

HOwsoeuer *carcer* & *ergastulum* are vsed promiscuously by moderne writers, yet if wee diligently enquire vnto each words origination, and how they haue beene vsed by more ancient autors, wee shall finde them thus differenced. *Ergastulum* was a prison much resembling our house of **Correction**, into which servants only were cast: *Carcer* a more publike prison, vnto which men of better ranke & fashion vpon iust occasion were committed: secondly, the power of sentencing any servant to the *Ergastulum*, was proper and peculiar to the master of the servant, without approbation from publike authoritie: but the power of the committing to the prison called *Carcer*, was onely in the publique magistrate: thirdly *Ergastulum* tooke away only the libertie and pleasure of life: *Carcer* life it selfe. The word *Carcer* hath his name *à coercendo*, from restraining men of their liberty.[a] It had two principal parts, the one called *Tullianum*; the other *Robur*; besides many other roomes wherein men were kept close prisoners, these two places were assigned for execution. In that which they called the *Tullianum* (we may english it their **Dungeon**) they strangled malefactors.[b] It had its name from *Servius Tullius* a *Roman* King, the first inventer & autor thereof. Of this *Salust* writeth, *Est locus in carcere quod Tullianum appellatur vbi paulatim*

[a] Sigon. de iud. lib. 3. c. 17.

[b] Sigon. ibid.

tim aſcẽderis ad leuam, circiter duodecim pedes humi depreſſus: eum muniunt vndiq́, parietes, atq́, inſuper camera lapideis fornicibus iuncta, ſed inculta tenebris, odore fada, atq́, terribilis eius facies eſt. In that other place which they called commonly *Robur*, ſometimes [c] *Robuſtus Codex*, ſometimes [d] *cuſtodia lignea*, ſometimes [e] *Italum robur*, (our engliſh phraſe ſtrong hold fitly anſwereth it) they broke maleſactors necks, by a kinde of præcipitation or tumbling them headlong, [f] from a certaine ſtock of a tree faſtned there in the earth; vnto this *Tully* alludeth. *Quæro ſ regeris ne in carcere cervices illi ipſi Vettio.* But more expreſly *Plautus*. [g] *At ego faciam vos ambos in robuſto carcere vt pereatis*; thoſe that had the chiefe overſight in ſuch executions were called *Trumviri capitales*, that is, high Sheriffs. The whole proceeding is ſet down by *Valerius*. [h] *Mulierem damnatam Prætor Trium viro necandã in carcere tradidit, quam receptam is qui cuſtodiæ præerat, miſericordiâ motus non protinus ſtrangulauit; adhuc etiam filiæ dedit, ſed diligenter excuſſa, ne quid cibi inferret, exiſtimans futurum, vt inediâ conſumeretur; cùm verò animadvertiſſet, filiam matrem lactis ſui præſidio ſuſtentantem, rem ad Triumvirum, Triumvir ad Prætorem, Prætor ad conſilium iudicum pertulit, & remiſſionem mulieri impetravit.* It is much controverſed among interpreters, what that kinde of puniſhment was which they tearmed *Malam manſionem*, wee may engliſh it little eaſe: Some vnderſtand hereby a certaine deepe dungeon, made in the forme of a pit or well, called therefore in latine *puteus*; but this as it ſeemeth by that of *Plautus*, was a puniſhment proper and peculiar to theeuiſh cookes. [i] *Coqui abſtulerunt, comprehendite, vincite, verberate, in puteum condite.* Others vnderſtand hereby a cloſe priſon, which becauſe of its ſtraightnes & cloſenes they called *arcã*, a cheſt: the vſe of this priſon, was for the ſafe keeping of ſuch who were afterward to be examined of farther matters; though ſometimes other offenders were caſt into the ſame. Of theſe primes *Tully* ſpeaketh. [k] *Subito arrepti in quæſtionem, tamen ſeparan-*

[c] Plaut. pœn. 5.3.
[d] Plaut. pœn. 5.6.
[e] Hor. lib. 2. od. 13.
[f] Turn. b. adv. lib. 23. cap. 21.
[g] Plaut. in Curc. act. 5. ſc. 5.
[h] Valer. l. 5. c. 4
[i] Plaut. Aulul. 2.5.
[k] Cic. pro Milone.

parantur à ceteris; & in areas conjiciuntur, ne quis cum his colloqui poſſit. Another kinde of priſon there was called *Sextritium*, thus it is commonly rendred in Latine, but the Greeke word is σεξτίλιον, and accordingly [a] *Turnebus* renders it *Seſtertium*, being of opinion that it was ſo called from the quãtitie of ground it contained, namely two acres and halfe. C. *Rhodiginus* thinketh that *Spoliarium* and *Sextritium* were not places vnlike, but herein not hee alone, but diuers others haue bin deceaued: for *Sextritium* is apparently a place of [b] execution, where thoſe were executed whom the *Roman* Emperours adiudged to death; now whether that *Spoliarium* were a place of puniſhment I much doubt. What in Latine we call *Spoliarium*, that the Greeks tearmed ἀποδυτήριον, both doe ſignifie primarily little cells or chambers neere adioyning to the bathes, where ſuch as waſhed themſelues laid vp their cloathes: In a borrowed ſenſe, both are vſed to ſignifie chambers and cells adioyning neere vnto the Amphitheatre or fencing place, wherein the fencers did put vp their clothes in time of fight, and becauſe ſuch as were wounded in fight were carried into thoſe chambers, where they languiſhing with much pain at laſt notwithſtãding expired for the moſt part, & that not without much torturing of the Chirurgion, hence ſuch a Spittle-houſe is alſo called *Spoliarium*. Thus much *Seneca* ſeemeth to intimate, [c] *Numquid aliquem tam cupidum vitæ putas, vt ingulari in ſpoliario, quàm in arena malit?* Whereby it appeareth, that *Spoliarium* was not a priſon vnto which malefactors were iudged, but rather as I ſaid a kinde of Spittle houſe. Other kinde of puniſhments there were of a neere likeneſſe with impriſonment: and caſting into the pillory, laying one by the heeles, &c. of theſe little is ſpoken more than the very names; of this ſort thoſe that do moſt commõly occur in autors, are theſe. *Nervus, Columbar, Numella, Codex. Nervus* is generally thought to reſemble our Stocks, [l] ſome take it to bee made of wood, others of yron, [m] *Nervum appellamus ferreum vinculum, quo pedes impediuntur*

[a] Turn. adv. lib. 3. cap. 18.

[b] Plutarch. in Galba.

[c] Sen. ep. 94. De ſpoliario Vid. Lipſ. Sat. 1. 18.

[l] Vid. Taubman. in Plaut. Aulul. 4. 10.

[m] Feſtus. Vid. Lam. in Plaut. Aulul. 4. 10.

ped untur: quanquam Plautus eo etiam vinciri cervices ait. Two of the last seeme to haue some resemblance with our Pillory. *Collumbar* had its name from *Collum*, because the necke was chiefly pained in this kinde of punishment. *Nu-*
n Turneb. ad- *mella* was also a kind of **Pillory**, being so called *quasi* n *Nu-*
verſ.l.23.c.21. *ella, quòd qui eo vinculo constricti erant, nuere demissoq; capite esse cogebantur.* *Codex* was a certaine block or **Clogge**, so tied vnto the malefactors, that they vsed it as a stool to sit on; the vse of this may seeme to haue beene only in priuate houses, thereby to keepe evill seruants the closer to their work; of this *Iuvenal* speaketh *Sat. 2.*

Horrida quale facit residens in codice pellex.

o Turneb.ibid. o *Turnebus* describeth it thus. *Codex est ligneus stipes, quem alligati serui, qui deliquerant trahebant, cuiq; insidebant vincti*

Cap. 6.

Culeus.

THE crime which in Latine we call *Parricidium*, is murder practised by father or mother towards the children, or by the children towards either of the parents; It had in old times a larger acception, signifying any murder betweene man and man, and then it was called *Parricidium, quia par parem occiderat.* The word taken in his first and proper signification, denoted a fact so vnnaturall, that
p Cic. pro Sext. Roscio. neither p *Solon* nor *Romulus* would determine any punishment against such offenders, because they thought none so wicked as to commit it; and the prohibition it selfe might proue a kinde of irritation, to prouoke some to the commission of that crime, which otherwise would neuer haue entred into their hearts. But the wickednesse of the aftertimes, enforced lawgiuers to inuent a sharpe punishment against such
q Senec. lib. 5. controv. 4. in fine. vnnaturall offences. The punishment decreed against Parricides in q *Senecaes* age, was, that such malefactors should be sowed

sowed vp in a leatherne sack together with serpents, and so cast into the sea; afterward there were sowed vp in the same sack an ape, and a cock, and at last a dogge. Whence *Iuvenal Satyr. 8.*

Cuius supplicio non debuit vna parari
Simia, nec serpens vnus, nec culeus vnus.

[a] *Modestus* describeth the manner thereof thus. The Parricide being first whipt with rods vntill the bloud came, then washe sowed vp in this sacke called *Culeus*, together with a dog, a cock, a serpent, and an ape.[b] They would not cast him naked into the sea, least the water thereof thereby might be polluted, wherewith all other pollutions in their opinion were expiated.

[a] Digest. lib. 48. ad legem Pomp. de parric. vid. Cœl. Rhod. l. 11. c. 21.
[b] Cic. pro Sext. Rosc.

Cap. 7.

Eculeus. Lamina. Vngulæ. Fidicula. σχοινισμὸς.

Eculeus had its denomination from *Equus*, *quasi Equuleus*, as may be collected from that description which [c] *Turnebus* giueth. But not so much from the positure or situation of the offenders body on the engine as *Turnebus* would haue it, for he in no wise resembled a man on horseback; but rather from the hoising or horsing vp of the party fastned with ropes vnto the *Eculeus*, so that his hands being tied fast at the vpper part of the engine, and his feet at the neather part, hee was hoysed vp into the ayre like vnto one fastned on a crosse. The forme of the *Eculeus* I cõceaue thus; it was not one entire stake, but rather two long peeces of timber ioyned together in forme of a stake, ioyned together I say, by the meanes of a vice or scrue; and the reason hereof was that by helpe of this scrue, the vpper part of the engine might be lifted vp to the racking and torturing of the malefactor, or let downe to the easing and remitting of his paines as should seeme good to the executioner, or other officers,

[c] Turneb. advers. lib. 4. c. 3.

who,

who now and then would grant ſome remiſſion and reſpite in hope of a confeſſion. For in the firſt inſtitution, the maine end of this torture was to worke out the knowledge of the truth. Neither did they alone racke the parties ioints in this kind of puniſhment, but to enforce him vnto a confeſſion by an augmentation of his paine, they did often with hot plates & iron pinſers, burne and teare his fleſh from his ſides, and all this we ſhall finde warranted by [d]*Sigonius*, whoſe words I haue written downe at large. *Eculeus cataſta fuit lignea, cochleata, ad intendendum ac remittendum apta, atq; ad torquendos homines, vt facti veritas eliceretur inſtituta. Tormenti verò genus erat huiuſmodi, vbi cataſtæ huic brachia pedeſq; eius, qui torquendus erat, nervis quibuſdam, quæ fidiculæ dicebantur alligauerant, tum cataſta intenta atq; in altum erecta, vt ex eo quaſi ex cruce quadam miſer ille penderet, primùm compagem ipſam oſſium illius diuellebant, deinde candentibus eiuſdem corpori laminis admotis, atq; biſulcis vngulis ferreis lateribus laniatis doloris acerbitatem augebant.* And thus wee ſee what the vſe of thoſe *Lamina* and *Vngula* were, namely that they were not ſeverall torments of themſelues, but adiuncts to this, to encreaſe the paine. The *Eculeus* was ſometimes called [e] *lignum tortorium*: ſometimes [f] *ſtipes noxialis*. The torturing engine called *Fidicula* was not much vnlike. *Fides* ſignifieth the ſtring of any muſicall inſtrument, and the engine had its name from the ſtrings & cords wherewith men were tortured vpon it; of this [g] *Turnebus* writeth. *Fidicula quæ in tormentis numerantur, mihi videntur laſcivia quadam ioci nomen inveniſſe, quod vt in fidibus nervi item quoq; vt nervi hinc & inde: multis funibus homines diſtendebantur.* The torment σχοινισμὸς vſed by the *Gracians*, was either this ſame or very like.

d Sigon. de Iud. l. 3. c. 18.

e Sozom. hiſt. Eccleſ. lib. 5.

f Prudent. in hymno Vincent. Martyr.

g Turneb. adu. lib. 4. cap. 3.

CAP. 8.

Cap. 8.

De rupe Tarpeia deiectio. De lapide empti. A furca redempti. Scala Gemoniæ. Tunica. Damnatio in gladium, in Ludum, ad beſtias.

MAlefactors for notorious offences were tumbled downe headlong from a certaine rock in the *Tarpeian* Mount: This kinde of puniſhment was called either ſimply *Deiectio è ſaxo*; or *Deiectio è Tarpeia rupe.* In ſome caſes notwithſtanding, by the interceſſiō of friends, or ſome other meanes, pardons were ſometimes obtained for the condemned perſons, whereby they were freed frō death howſoeuer the diſgrace and infamy cleaued euer after vnto them, and therefore they were tearmed *de lapide empti*: which phraſe [h] *Cœlius Rhodiginus* hath parallel'd with that, *a furca redempti*, that is, *ſaued from the gallowes.* In the *Aventine* Mount was a place of like nature, called *Scalæ Gemoniæ*: certaine ſtayres whether condemned perſons were dragged, & ſo caſt headlong into the riuer *Tiber.* *Cœlius Rhodiginus* ſeemeth to be of another opinion: [i] who deſcribing this puniſhmēt, ſaith, that an hook was thruſt into the malefactors throat, and ſo hee haled by the Executioner vnto theſe ſtayers, where hauing his thighs broken he was burnt. Furthermore he addeth, that they were called *Scalæ Gemoniæ*, or *gradus Gemonij*, becauſe, as ſome are of opinio, the firſt that ſuffered this kinde of puniſhment his name was *Gemonius*: or as others would haue it, becauſe it was *locus gemitus, & calamitatum.* If we admit that malefactors were here burnt, then may we thinke this puniſhment *ad Scalas Gemonias*, to be the ſame, which ſometimes was called *Tunica.* The reaſon of which name was, becauſe perſons thus to be burned, were clad with a coat dawbed in the inſide with pitch and brimſtone

[h] Cœl. Rhod. ant. l. 25. c. 22.

[i] Cœl. Rhod. lib. 10. cap. 5.

stone. Thence is that of [k] *Seneca, Cogita illam tunicam alimẽtis ignium & illitam & intextam.* This giueth light to that of *Iuuenal. Sat. 8. Tunica punire moleſta.*

[k] Sen. ep. 14.

[l] *Tertullian* also mentioneth it in this sense. To these may be added two other punishments vsually inflicted vpon fugitiue seruants, but yet not so restrained vnto them, as that they were not sometimes extended to other malefactours. The first is *Damnatio in gladium.* A condemning one into a fence-schoole, there to be traine d vp in the art of fencing, vntill some publike prizes were plaied, at what time such a cõdemned person was to fight for his life. [m] *Capitolinus* calleth it *Ad gladij ludum deputationem.* But *Vlpian*, as [n] *Lipsius* elsewhere obserueth, differenceth these two phrases thus. He that was *ad gladium damnatus*, was either presently put to death, or else at farthest within the compasse of an yeare: but he that was *damnatus in ludum*, had not death so peremptorily sentenced vpõ him; if he scaped the danger of those publike prizes, & alwaies got the vpper hand of his aduersaries, at three yeares end, he receaued the *Rudem*, or wand, which was a token of discharge from those bloudy combats: yea at fiue yeares end, he receaued the *Pileum*, or cap, which was a token of his infranchisement or freedome in the city. The second sort was *Damnatio ad beſtias.* A condemning of a mã to fight for his life with beasts; as with Beares, Leopards, Lions, &c. The persons thus condemned were tearmed [o] *Beſtiarij.* A memorable example thereof we haue in a certaine *Roman* seruant called *Androchus*, [p] who hauing runne from his master liued in a wildernesse, and whiles hee rested himselfe in a denne, there came a fierce Lyon vnto him, moaning and grieuing becausse of a stumpe of a tree which stuck fast in his foot; *Androclus* at first beganne to be affrighted, but the Lion comming neerer & neerer vnto him, and laying his foot on the mans lap, intimated his desire of helpe from him, which when the man perceaued, he plucked out the stumpe, and gaue him what ease he could. Afterward this fugitiue being

[l] Tertul. ad Martyr.

[m] Vid Lipſ. Satur. l. 2 c. 3

[n] Lipſ. Satur. lib. 2. cap. 23.

[o] Alex. ab Alex. lib. 3. cap. 5

[p] A. Gel. lib. 5. cap. 14.

being apprehended & adiudged to this punishment, it happned that this very Lion was brought into the shew-place for *Androclus* to fight with, where insteed of a fierce on-set, the Lion vsed a tame and familiar fawning on him, wherevpon the spectators admired, and vnderstanding the former passages betweene *Androclus* & the Lion, they released the servant and freed him from his punishment. Where wee must note that this pardon was extraordinary [q] for vsually if any so condemned happened to ouercome a beast or two, yet was he not thereby discharged, but was to encounter with others vntill hee were killed. Yea it was very seldome that the man could prevaile against the beast, on the contrary one Lion hath prevailed against two hundred men; according to that [r] *Præclara ædilitas, vnus leo ducenti bestiarij.* By which we see many mē one after another did thus fight with beasts at the same meeting: yea the [s] *Græcians* called such as succeeded the first combatants ἐφέδρους, the Apostle S. *Paul* calleth them ἐσχάτους, because they were reserued vntill the last. [u] *Tertullian* readeth that place in this sense, and the words themselues enforce as much, for what shall we vnderstand by θέατρον ἐγενήθημεν, but the very spectacle or shew it selfe, and what by ἀπέδειξεν, which signifieth properly *Ostendit*, but allusion to him who was the chiefe author and exhibiter of these bloudy spectacles vnto the people. [t] *Lipsius* hath parale'ld that phrase of *Tully, Ostendere munus*, with that of *Suetonius, proponere munus*; both signifying the setting forth or bestowing the sight of such masteries, & fightings. And that it was no vnvsuall kinde of Martyrdome in times of the primitiue Church, thus to expose holy men to the fury and rage of wild beasts, appeareth by the example of *Ignatius*, who reioyced to bee grownd betweene the teeth of wild beasts, that he might bee found pure bread. Whose words were [x] *Frumentum sum Christi, & per dentes bestiarum molor, vt mundus panis Dei inveniar*: yea the word Ἐπιθανατίους, *morti addictos*, helpeth this interpretation: the word intimateth

q H. Salmuth. in Pancirol. de veter. ludis.

r Cic. in. orat. pro Sestio.

s Suid. in voce Ἐφέδρος.

t 1. Cor. 4. 9.

u Tertul. lib. de pudicit.

* Lips. Satur. lib. 2. cap. 18.

x Iren. advers. hæres. l. 5. c. 28. It. Euseb. hist. Eccl. l. 3. c. 33.

that there was a ſure death remained for them alſo, though the laſt. The cuſtome being in the morning to commit men with beaſts, but thoſe ἰσχαῖοι which remained till noone-tide, and were therefore called *Meridiani*, were committed each againſt other, and that without any defenſiue weapons, with ſwords in one hand cutting, and with the other hand being empty, graſping and tearing each others fleſh, ſo that *Seneca* ſpeaking of this, comparing it with that former fighting with beaſts, ſaith. *Quicquid ante pugnatum eſt, miſericordia fuit.*

[y] Suet. Claud. cap. 34.

[z] Senec. ep. 7.

Cap. 9.

Ergaſtulum. Ergaſtula inſcripta. Piſtrinum. Damnari in Antliam. Metallum. Inſcripti. Stigmatici. Literati. Virga. Flagella. Talio.

THE ſtate & condition of ſervants was various and different amongſt the *Romans* in old time, but of all they were moſt miſerable who liued in priſon. Whence thoſe that were ordinarily imployed in theſe priſon ſeruices, they were either ſuch ſeruants as were bought for that purpoſe; or ſuch as for notorious crimes were adiudged therevnto in way of puniſhment, whence the word *Ergaſtulum* is iuſtly deriued from the Greek Ἐργάζομαι, becauſe it is τόπος ἐν ᾧ οἱ δεσμῶι Ἐργάζονται: *locus in quo vincti operantur.* For even in the day time when they were ſent forth to work they had ſhackles and bolts about their legs to prevent their eſcapes, or running away, though not ſo bigge as thoſe into which they were caſt at night when they returned into priſon. Their fetters or bolts are oftentimes in ancient writers (peradventure from the forme of their links) tearmed *Annuli*, & themſelues ſaid to haue *pedes Annulatos.* They had alſo their foreheads marked or burned with ſome letters of infamy, which is the reaſon of *Iuuenals* Epitheton. *Inſcripta ergaſtula.*

Quem

Quem mire adficiunt inſcripta ergaſtula. The labours in which they were imploied, were ſometimes digging, deluing, and tilling the ground: ſometimes digging of quarry pits, ſometimes grinding with an handmill, ſometimes drawing water: this latter kinde of puniſhment in [m] *Suetonius* his phraſe is *In Antliam damnari.* Thoſe Criticks who for the word *Antlia* doe ſubſtitute *Anticyra*, or *Andia*, or ſuch like names of Ilands, doe vtterly faile of the Autors ſcope, and drift; for the puniſhment which *Suetonius* ſpeaketh of, is ſome ſtrange or vnvſuall puniſhment: now ſeeing that Senatours themſelues were often exiled, it could not ſeeme ſtrange that *Roman* knights ſhould be baniſhed into forreigne lands. But this was a matter vnvſuall, and vnheard of, that a *Roman* knight ſhould be imployed in ſuch drudgeries. Againe the word *Antlia* fitly denoteth ſuch a kind of labour, whether we reſpect its Etymology ἀπὸ τῆς ἀντλεῖν; or its ſignification in Latine autors, it being vſed by them to ſignifie a great bucket, or water-ſcoupe to draw vp water. Thus *Martial.* *Curta laboratas antlia tollit aquas.*

[m] Suet. Tiber. cap. 51.

The handmill is often expreſſed by the latine word *piſtrinũ*, a word frequent in Comicall Autors. It much reſembled our **Bride-well** or place of correction, being called *piſtrinum à puſendo*, from pounding. For before the vſe of mills was knowne, the *Romans* did pound their corne in a great morter, calling the place where they pounded it *piſtrinum*: whereupon our hand-mill hath retained the ſame name to this day. And becauſe of the great paines that men did ſuffer in pouding, as likewiſe the ſtrict diſcipline vſed towards ſeruants thus puniſhed (for [n] their neck was thruſt into a certaine woodden engine called *pauſi capi*, made for the purpoſe leaſt happily in time of grinding they might eat of the meal) hence grew a cuſtome among them, that when a ſervant had offended his maſter, he would menace him in this manner. *In piſtrinum te dedam.* I will caſt thee into **Bride-well**. The puniſhmẽt *Metallũ* was not much vnlike: the digging in Met-

[n] Turn. adv. l. lib. 4. cap. 13.

tall-mines, and working in metall houſes, appeareth not only to haue beene a baſe and ſervill, but alſo a very laborious and painefull worke; whence it was eſteemed a grievous puniſhment to be adiudged to Metall-workes, or caſt into a Metall-houſe. And either for the encreaſe of ſuch mens paines, or for to keep them from eſcapes, they were enforced to worke with their fetters and geiues about them, as is implied by *Vlpian*,[o] who makes the difference betweene theſe two phraſes: *Damnari in metallum*, and *Damnari in opus metalli*, to be thus; that the firſt ſort did weare heauier & greater fetters then the laſt. How true the difference is I leaue it to the enquirie of others, but that it was a great and infamous puniſhment [p] *Tertullian* witneſſeth, in that ſpeech of his againſt the Heathen people. *De veſtris ſemper æſtuat carcer, de veſtris ſemper metalla ſuſpirant.* Sometimes there was only ignominy and diſgrace intended in their puniſhments, of which ſort was the bearing vp and down the *Roman Furca* in the market place, or elſewhere in publike view, whereof I haue ſpoken in the chapter *Furca*: likewiſe a branding of the Malefactor with ſome infamous letter in his forehead or hand, or ſome other part of the body. Whence [q] *Pliny* calleth ſuch ſervants *Inſcriptos*. Generally they are called *Stigmatici* from στίζω, which ſignifieth to brand with marks; As *Nebulo ſtigmaticus*, A rogue burnt in the hand, or any way marked: ſometimes ſuch are called *Literati*. The *Athenians* being enimies to the *Samij*, as often as they took them captiues, they did vſe thus to burne them for rogues, which occaſioned that proverbiall ſcomme; [r] *Samijs nemmem eſſe literatiorem.*

o Vid. Cæl. Rhodig. l. 10. cap. 5.

p Tertul. apolog. cap. 44.

q Plin. l. 18. c. 3

r Cæl. Rhod. lib. 7. cap. 31.

Sometimes beſides the diſgrace there was alſo toileſome paines as appeared by their *Ergaſtula*; & ſometimes to their paines ſtripes added: though I deny not, but that many times, correction with ſtripes was a preparation for death it ſelfe. This correction by ſtripes was twofold, either it was *Verberatio*, or *Flagellatio*: the firſt was with rodds called *Virgæ*;

Virga; the other with ſcourges called *Flagella*. That there was a difference betweene *Virga* and *Flagella*, is plaine by *Tully*, where by way of Ironie he ſaith, *Porcia lex virgas ab omnium civium corpore amouit; hic miſericors flagella retulit.* Both of them were counted ſervile, ſo that Freemen were ordinarily exempted from them, as appeareth. [m]

[m] Ter. Adelph. Act. 2. Scen. 1.

--- *Ad necem operiere loris. Sanè loris liber?*

Horace alſo intimating the ſervile condition of *Mena* ſaith:

[n] *Sectus flagellis hic triumviralibus.* [n] Epod. od. 4.

They are called *Flagella Triumviralia*, from thoſe *Triumviri* whom formerly I tranſlated Shreiffes, becauſe to them belonged the ouerſight of this puniſhment. *Euſtathius* calleth them ἀστραγαλωτὰς μάστιγας, *id eſt*, *Flagra talaria*, *ſeu taxillata*, becauſe to augmẽt the paines, they did vſually in theſe ſcourges tye certaine huckle bones or plummets of led at the end of the whip-cords or thongs, and ſuch ſcourges they tearmed *ſcorpiones*. The cruelty of theſe ſcourges was ſuch that they many times died vnder them. Thus haue we generally and briefly touched the more vſuall puniſhments. But ſometimes wrongs done betweene party and party, were puniſhed with a retaliation m the ſame kinde: according to that. *A tooth for a tooth, and an eye for an eye.* And this kinde of puniſhing was called *Talio*. Yet wee are to knowe that a ſimple retaliation, ſuch as is tearmed *Talio Pythagorica*, was not alwaies exacted; but ſometimes ſatisfaction might bee wrought by a commutation of the puniſhment. [o] *Reus habuit facultatem paciſcendi, & non neceſſe habuit pati talionem, niſi eam elegiſſet.* It were endleſſe to ſpeake of all the puniſhments, and happily not worth the labour, their very names being ſufficient comments to explaine them. As, *Effoſſio oculorum. Amputatio manuum, cruri fragium, Talifragium*, and ſuch like.

Tholoſ. n. ſynt. iur. vniverſ. cap. 11. lib. 31.

[o] A. Gel. li. 11. cap. 1.

LIB. 3. SECT. 4.

Of the Roman Lawes.

CAP. 1.

De Legibus.

HAuing ſpoken of the ciuill Magiſtrates, and puniſhments, we will now alſo deſcend vnto the ciuill law: where firſt we will note among other differences betweene *Ius* and *Lex* principally theſe. Firſt, *Lex* ſignifieth only the law, but [a] *Ius* ſignifieth alſo that place, whereſoeuer the Law or Iuſtice was adminiſtred: not only if it were adminiſtred out of the Tribunall in the *Comitio*, or great hall of Iuſtice, which was tearmed by the Lawyers, *Agere pro Tribunali*: but alſo if it were adminiſtred in a priuate houſe, or in ones iourney, ſo that it were by a lawfull Magiſtrate, and out of the curule chaire; and this was tearmed by the Lawyers, *Agere de Plano*: and hence is it, that *in ius vocare* ſignifieth to cite one into the Court. Secondly, *Lex*, ſignifieth only the written law, but *Ius* ſignifieth equitie; ſo that [b] *Ius permaneat ſemper, nec vnquam mutetur: Lex vero ſcripta ſæpius.* Notwithſtanding theſe two words are vſed promiſcuouſly one for the other; and therefore leauing all curious differences betweene thoſe words (whether the

[a] Sig. de iud. lib. 1. cap. 7.

[b] Fr. Sylv. in exat. pro Mil.

Roman

Roman lawes were truely *Iura* or *Leges*) thus much we may obſerue, that the lawes vſed among them were of three ſorts; either they were ſuch as were made by ſeuerall *Roman* kings, and afterward collected and digeſted into a method by *Papirius*, [c] from whence it was called *Ius Papirianum*: or they were ſuch as the *Decemviri* brought from *Athens*, and were called *Leges 12 tabularum*: or laſtly they were ſuch as the *Conſuls*, the *Tribuni Plebis*, and ſuch Magiſtrats did preferre, whence euery ſeuerall law bore the name of him or them that preferred it. My purpoſe is to explaine only this latter ſort, and that not all of them, bnt ſuch alone as I haue obſerued in *Tully*, and that chiefely in his orations. My proceeding ſhall be firſt to ſhew the diuers kinds of iudgements; and then to deſcend vnto the lawes themſelues, beginning with thoſe which ſhall concerne the *Roman* religion, and then proceeding to the others, which concerne the commonwealth.

[c] Fr. Sylu. in epiſt. virorum illuſt. l. 5. ep. 11.

Cap. 2.

De Iure publico & priuato.

THE Caſes to be decided by the law were either publike or priuate; and accordingly were the iudgements, [d] *vel priuata, in quibus ius ſuum priuatus quiſq; perſequebatur: vel publica, in quibus iniuria quæ reip. facta erat vindicabatur.* The priuate (as we obſerued before) belonged vnto the *Pretori vrbano & peregrino*, that is, the L. cheife Iuſtices, who did either giue iudgement themſelues, and then were they ſaid *Iudicare*, or they did appoint others to ſit in iudgement, and [e] then were they ſaid *Iudicium dare*: in the abſence of the *Prators* there were ten called *Decemviri Stlitibus iudicandis, id eſt*, [f] *Super lites iudicandas*, who in the ſame manner, as the *Prator*, might either giue iudgement themſelues, or appoint others; for they were euen in [g] one place

[d] Sig. de iure Rom. l. 2. c. 18.

[e] Sig. de iud. lib. 1 c. 7.

[f] Roſin. ant. l. 7 c. 29.

[g] Alex. Gen. dier. l. 3. c. 16.

and insteed of *Prators*. Those which either the *Prator* or the *Decemviri* did appoint to debate the cases vnder them, were taken out of the *Centumviri*, that is, [b] out of certaine Commissioners chosen for that purpose; namely three out of every Tribe or ward; so that in all, the number of them amounted vnto an hundred and fiue, but in round reckoning they went for an hundred; and from a certaine speare that was wont to be erected vp in token of this court, hence was the [i] Court called either *Prætoria Decemviralis*, or *Centumviralis hasta*: In some cases their forme of acquittance was thus: [k] *Secundum illum litem do*, whence [l] *Tully* saith, *Quo minùs secundum eos lis detur, non recusamus*, that is, we doe not deny, but they may be acquitted. Those that were cast in their suit, were said, *Lite vel causa cadere*. The publike Cases belonged ordinarily (except the *Consuls*, the *Senate*, or the people did interpose their authority) vnto those whom we called *Prætores Quæsitores*. Some haue [m] thought them to be the same with those, whom *Rosinus* calleth *Iudices Quæstionum*, and that I thinke not altogether vpon vnsure grounds: first because most of these publique cases, which they tearmed *Quæstiones*, had their [n] seuerall *Prators* to enquire them; whence they were called *Quæsitores*, and may in my opinion be called *Iudices Quæstionum*, especially seeing that those which would haue them bee different officers, cannot well shew the difference of their offices. Now as the Vrbane *Prator* had an hundred commissioners vnder him: so had these *Prætores Quæsitores* certaine Iudges chosen [o] by the Vrban or forreigne *Prator*, when he tooke his oath; and that not according to his pleasure as many as he would, or whom hee would, but sometimes more, sometimes fewer, sometime, only out of the *Senators*, sometimes only out of the order of *Roman* Gentlemen, sometimes out of both; sometimes also out of other orders, [p] according as the law appointed, which [q] oftentimes varied in those points. The Iudges how great soeuer the number was, were called *Indices selecti*, and were divided

[b] Pet. Ramus in 2am de lege Agrar.

[i] Sig. de Iud. lib. 1. c. 28.

[k] Sig. de Iud. lib. 1. c. 29.

[l] Cic. pro Quin. Roscio.

[m] Rosin. ant. lib. 2. cap. 18.

[n] Sig. de Iud. lib. 2. c. 4.

[o] Sig. de Iud. lib. 2. cap. 6.

[p] Sig. ibid.

[q] Sig. de iur. Rom. l. 2. c. 18.

vided into seuerall companies called *Decuriæ*. These Iudges were vpon any citation from any of the *Prætors*, to giue their assistance in the Court vpon the day appointed by the *Prætor*. Now the manner how they did proceed in their iudgement followeth in the exposition of one of the lawes, and therefore I will referre the reader thither. Only let him by the way vnderstand, that whereas *Tully* is quoted in euery law, it is not so much for the proofe of the law, as to signifie, that he in that place maketh mention thereof. For the proofe of the lawes I referre the reader to *Rosinus* and *Sigonius*: touching the expositions, my marginall quotations doe proue sufficient.

Cap. 3.

De Legibus religionem spectantibus.

Lex. Papiria.

L. Papirius Trib. Pleb. established a law touching the consecration or hallowing of places, that it should be vnlawfull for any to consecrate either houses, grounds, altars, or any other things *Iniussu plebis*, that is, without the determination of the *Roman* people in their assemblies called *Comitia Tributa*, which determination was alwaies tearmed *Plebiscitum*. Cic. pro Domo.

Roscia Lex.

L. Roscius Otho. Trib. Pleb. preferred a law, that whereas heretofore the *Roman* Gentlemen did stand promiscuously with the commons at their theatrall shewes, now there should bee foureteene benches or seates built for those *Roman* Gentlemen which were worth H.S. *quadringenta*, that is, about 3125 l. of our *English* mony. As for other Gentlemen whose substance was vnder the rate, they had a certaine place allotted them by themselues, with a punishment imposed vpon them, if they offered to come into any of those 14 benches. Cic. Philip. 2. Item pro Muræn.

Here wee muſt note that this character H-S. ſtandeth for a ſilver coyne in *Rome* called *Seſtertius*, and is by *Roſinus* in this place improperly vſed for *Seſtertium*. For this character H-S. is by our printers falſe printed, the true character [p] being L-L-S. ſignifying *duas Libras* (as the two L.L. doe intimate) and *Semiſſem*, which is intimated by the latter S. Where if *Libra* doth ſignifie no more then the *Roman* coyne called AS, then is this opinion touching the character LL-S eaſie to be confirmed. For diuers authors [q] rendring a reaſon of the name *Seſtertius*, ſay it was ſo called *quaſi Semitertius* that is, ſuch a coyne as containeth *Duos ſolidos aſſes & ſemiſſem*. This *Seſtertius*, was ſuch a common coyne among the *Romans*, [r] that *Nummus* and *Seſtertius* became at length one to be vſed for the other; [d] *Mille huiuſmodi ſeſtertij vel nummi faciunt vnum ſeſtertium in neutro genere, & conficiunt plus minus viginti quinq; coronas.* According to which rate, *quadringenta ſeſtertia* amounteth to 3125: and every particular *Seſtertius* is according to this rate, in value three halfe-pence farthing *q*.

[p] Fr. Matur. in Philip. 2.

[q] Chr. Hegendorphius in Verrinam 1.

[r] P. Nannius in Verrin 5.

[d] Ch. Hegendorphius in Verrin. 5^m.

And here we may fitly obſerue the art of numbring by theſe *Seſterces*, which conſiſteth in three rules. Firſt, if the numerall or word that denoteth the number bee a noune adiectiue agreeing in caſe gender and number with the ſubſtantiue *Seſtertius*, then it ſignifieth preciſely ſo many *Seſtertij*: For example ſake; *Decem ſeſtertij* doe ſignifie ſo many times *i^d ob q^a q*. Secondly, if the numerall being an adiectiue, and of a different caſe, be ioyned with *Seſtertium* in the genitiue caſe plurall, then doth it note ſo many thouſand *Seſtertij*: For example, *Decem ſeſtertium* ſignifieth ten times 7^l 16^s 3^d. Thirdly if the numeral ioyned with *Seſtertium* be an adverb, then it deſigneth ſo many hundred thouſand *Seſtertij*, *ex gr.* *Decies ſeſtertium*, doe ſignifie ten hundred times 7^l 16^s 3^d. Yea the numerall being an aduerb, is oftentimes put ſimply by it ſelfe, without the addition of any other word to ſignify in the ſame manner, the genitiue caſe *Seſtertium* being vnderſtood,

stood. For the better conceauing hereof, the former example may be thus set downe.

Decē sestertij	*valent*	*10 Sestertios*	*De nostro*	0000^{l}	01^{s}	6^{d}	ob	q^{a}
Decē sestertiūm		*10 Millia sestertiūm*		0073	02	6	0	0
Decies sestertiūm		*10 Centena Millia sestertiūm*		7812	10	0	0	0
Decies								

Clodia lex.

Publius Clodius Trib. Pleb. made a law, by vertue whereof the Priest called *Pessinuntius sacerdos* (from the place where he did first exercise those holy rites in the honour of the mother Goddesse) should be depriued of his Priesthood; and the Temple built in the honour of this Goddesse should be bestowed vpon *Brotigarus*, of *Gallo-Gracia*. Cic. pro Sext. item de Arusp. respon.

Domitia lex.

Cn. Domitius Ahenobarbus Trib. Pleb. enacted a law, that the Colledges of Priests should not as they were wont, admit whom they would into the order of Priesthood, but it should be in the power of the people. And because it was contrary to their religion, that Church-dignities should be bestowed by the common people, hence did he ordaine, that the lesser part of the people, namely seauenteene Tribes should elect whom they thought fit, and afterward he should haue his confirmation or admission from the Colledge. Cic. Agrar. 2.

Lex incerti nominis de vacatione sacerdotum.

Cicero in his orations mentioneth a law (not naming the author thereof) whereby the Priests were priuiledged from their seruice in all warres, except onely in vproares or ciuill tumults.[x] And these priuiledges were tearmed *Vacationes*. Cic. Philip. 8. & pro Font.

[x] B. Latomus in Philip. 7.

Cap. 4.

De Civitate, & iure civium Rom.

Porcia lex de civitate.

Cic. pro Rabir. & sæpe alias.

M. *Porcius Trib. Pleb.* eſtabliſhed a law, that no Magiſtrate ſhould beate any *Roman* Cittizen with roddes.

Lex Sempronia.

Cic. pro Cluentio, & ſæpe alias.

C. Sempronius Gracchus Trib. Pleb. preferred a law, whereby he diſabled the Magiſtrate from puniſhing any *Roman* Cittizen, either with rods, or with his axe, that is, with death, without the allowance of the people. Secondly, by vertue of this law, if any Magiſtrate did condemne any *Roman* cittizen *Indictâ causâ* he ſhould be liable to the iudgement and cenſure of the people. A third clauſe to this law was, *Ne quis coiret, conueniret, quo quis iudicio publico circumueniretur Iudicta causa.* He was ſaid to bee condemned *causa indicta*, which was condemned before he had ſpoken for himſelfe. Although *Indicere pro non dicere, ſicut & inuidere pro non videre vix reperiatur; tamen indictum & inuiſum, pro non dicto, & non viſo ſæpè reperiuntur.* [2] They were properly ſaid *Coire*, which did worke vnderhand againſt a man, that he might be condemned; we may tranſlate it in this place, to Conſpire. [3] The verbe *Circumvenio* doth commonly ſignifie as much as *Circumſcribo*, to deceaue or cheat one: but in this place, to oppreſſe one with falſe iudgement, procured by bribery or confederacy.

[1] P. Ramus in orat. pro Rabirio.
[2] Fr. Sylv. in orat. pro Cluentio.
[3] I. Camerar. in orat Cic. pro L. Flacco.
[4] Fr. Sylu. in orat. pro Cluentio.

Lex Papia de peregrinis.

Cic. pro Balb.

The priuiledges of the *Roman* citizens became ſo great, that almoſt all the inhabitants of the confederat nations, would forſake their owne dwellings, and vſe meanes to become free deniſons in the *Roman* citty; inſomuch that the Embaſſadours of the Allies, and aſſociates, did grieue much and

and complaine of the losse of their inhabitants: wherevpon a law was made by *Papius*, that all forreiners and strange commers should be expelled out of the Citty. To the same effect was *Lex Iunia*, and also *Licinia Mutia de peregrinis:* the first being preferred by *Mar. Iunius Pennus*: the second by L. *Licinius Crassus*, and *Q. Mutus Scævola.* Cic. offic. l. 3.

Servilia lex de ciuitate:

C. Servilius Glaucia preferred a law, *Vt si quis Latinus*, If any of the Latine associates could proue an action of bribery against a *Senatour*, then should he be made a free-man of the Citty. Cic. pro Balb.

Quis Latinus] Here wee will obserue with [c] *Sigonius*, that the *Latine* people were not alwaies called *Latini & Italici*: *Sed & socij, & Latini socij; & socij nominis Latini, & socij nomeng, Latinum, & socij ab nomine Latino, & socij ac Latium dicti sunt.* [c] Sig. de iure Ital. l. 1. c. 2.

Sylvani & Carbonis lex de peregrinis.

Silvanus and *Carbo* being *Tribuni Pl.* preferred a law, *vt qui federatis ciuitatibus adscripti essent, si tum, cùm lex ferebatur, in Italia domicilium habuissent, ac sexaginta diebus apud prætorem professi essent, ciues Romani essent.* Cic pro Archia.

Adscripti.] For the right vnderstanding hereof wee must note, that there were [d] two sorts of citizens; some *ciues nati*, that is, citizens by birth; others *ciuitate donati*, that is, citizens by donation, or gift: who because they were added vnto, & registred with the first sort of cittizens, were thence called *Adscripti cives.* [d] Fr. Sylu. in orat. pro lege Manil.

Professi apud prætorem.] This verbe *profiteri* is sometimes [e] *Comitiale verbum*, and signifieth as much as *profiteri nomen*, that is, to tender ones name vnto a Magastrate: and this construction it beareth in this place. [e] P. Ramus in or. Cic. Agrar. 2.

Cornelia de Municipijs.

L. *Cornelius Sylla* preferred a law, that all *Municipall* states should loose their freedome in the *Roman* citty, and also their priuiledge of hauing commons in the *Roman* fields. Cic. pro Domo.

Gellius

Gellia Cornelia lex.

Cic. pro Balb. L. *Gellius Publicola*, and *Cn. Cornelius Lentulus* being Cõsuls decreed a law, that all those private persons vpon whom *Cn. Pompeius* in his wisdome should bestowe the freedome of the *Roman* cittizens, should euer be accounted free denisons.

Cap. 5.

De legibus ad comitia spectantibus

Ælia lex.

Cic. multis in locis. Q. *Ælius Paetus* asked a law in time of his Consulship, *vt quoties cum populo ageretur*, that is, as often as any *Roman* Magistrat did assemble the people to giue their voices, the *Augures* should obserue signes and tokens in the firmament, & the magistrate should haue power *obnunciandi, & intercedendi*, that is, to gainsay and hinder their proceedings.

Ageretur cum populo.] Here wee may note the difference betweene these two phrases, *Agere cum populo*, and *Agere ad populum*. f He was said *Agere ad populum*, whosoeuer made any speech or oration vnto the people, and this might bee done vpon any day indifferently: But then only was it said *Agi cum populo*, when the people were assembled to the giuing of their voices by a lawfull Magistrate, and the people were demanded what their opinion was in the matter proposed: and this could not be done, g but vpon one of those daies which they called *Dies Comitiales*.

f A. Gell. l. 13. cap. 14.

g Bersman. de vet. dier. ratione ad finem. Ouid. Fast. Cic. in suis orat. sæpe.

Fusia lex.

Pub. *Furius sine Fusius Philus* being *Consul* ordained a law, that vpon some certaine daies, although they were *dies Fasti*, that is, Leet-daies, yet no Magistrate should summon an assembly.

Clodia

Clodia Lex.

P. Clodius Trib. Pl. abrogated both thoſe former lawes, making it vnlawfull to obſerue ſignes and tokens in the heavens, vpon thoſe daies when the *Roman* people were to bee aſſembled: And ſecondly, making it lawfull to aſſemble the people vpon any Leet-day whatſoeuer. Cic. pro Sext.

Gabinia lex.

At firſt, for many yeares the *Roman* people in their aſſemblies did ſuffrage *Viuâ voce*: at which time many of the inferiour ſort, gaue their voices contrary to their wills, fearing the diſpleaſure of thoſe that were of higher place. For the better helpe in this point, *Gabinius* asked a law, that the people in all their elections might not ſuffrage *Viua voce*, but by giuing vp certaine tablets, the manner whereof hath beene formerly ſhewne: whence both this, and all other lawes tending to this purpoſe haue beene called *Leges tabellaria*. Cic. 3. de. leg.

Caſſia lex.

After *Gabinius*, *Caſſius* alſo preferred a law, that both the Iudges in their iudgements, and the people in their aſſemblies ſhould ſuffrage by rendring ſuch tablets: [h] but this is to bee vnderſtood onely of thoſe aſſemblies by wards called *Comitia Tributa*: wherein they treated of mulcts and mercements. Cic. in Lælio. [h] Roſin. ant. lib. 8. c. 3.

Cœlia lex.

Cœlius Trib. Pl. eſtabliſhed a law, that not only in mulcts and mercements, but alſo *In perduellionis inducio*, that is, in taintments of treaſon againſt any perſon of ſtate (namely ſuch as were *ſacroſancti*) or againſt the common-weale, this *Tabellary* liberty ſhould haue place, when the people ſhould iudge thereof. Cic. 3. de leg.

In perduellionis ind.] [i] This word *perduellis* doth ſignify an enimie vnto the ſtate, a traitour: and hence commeth this word *perduellio*, ſignifying not only the crime of treaſon, but the puniſhment alſo due thereunto, [k] *Si crimen quod erat gra-* [i] Cœlius Sec. Curio in orat. pro Milone. [k] Sig. de iud. lib. 3. cap. 3.

viſſimum inter crimina, nempe imminuta maieſtatis: ſi pœna, quæ erat acerbiſſima, nempe mortis.

Papiria lex.

Cic. de leg. 3. *C. Papirius Carbo Trib. Pl.* perſwaded that not onely in their elections, but in the propoſall of their lawes alſo, this ſuffraging by tablets ſhould be vſed.

Sempronia lex.

Cic. multis in locis. *C. Sempronius Gracchus Trib. Pleb.* preferred a law, that the Aſſociats of *Latium* ſhould haue as great right of ſuffraging, as the *Roman* citizens.

Manilia lex.

Cic. pro Mur. *C. Manilius Trib. Pl.* preferred a law, that all thoſe who were *Libertini*, in what tribe or Ward ſoeuer, ſhould haue the right of ſuffraging.

Cap. 6.

De Senatu & Senatoribus.

Claudia lex.

Cic. Verrin. 7. Q. *Claudius Trib. Pleb.* perſwaded a law that no *Senator* or *Senators* father, ſhould haue any ſhippe, which ſhould containe aboue three hundred of thoſe meaſures called *Amphoræ*, deeming that ſufficient for the tranſportation of their corne from the *Roman* field. Secondly, by this law the *Senatours* were forbidden the vſe of trading.

[1 Alex. Gen. dier. l. 2. c. 20. *Amphora*,] [1] *Alexander Neopol.* obſerueth two ſorts of theſe meaſures, namely *Amphora Italica* containing 2 *Vrnas*; & *Amphora Attica* containing 3 *Vrnas*: every *vrna* contained two gallons and a pottle. This in probability is vnderſtood of the *Italian Amphora*.

Tullia lex.

Cic. Philip. 1. When as a cuſtome had growne, that many of the *Senators* hauing by ſpeciall fauour obtained *Liberam legationem*, vpon

vpon all occasions would abuse that their authoritie, procuring thereby their private gaine, & the increase of their own honour; then *M. Tullius Cic.* being *Consul* laboured, quite to take away these kindes of embassages: which though hee could not effect, yet thus farre he prevailed; That whereas in former times this *Libera legatio* being once obtained, was neuer (not through a mans whole life) taken from him againe: yet afterward this autority should never bee granted to any longer, then the space of one yeare.

Legatio libera.] We may obserue in ancient autors three severall kindes of embassages. The one, which is a message sent from the Prince or chiefe gouernours of one countrey vnto another, and that is expressed commonly by this one word *Legatio*, without any addition thereunto; sometimes it is called *Legatio mandata*. The second, which is when one purchaseth the title of an Embassadour, thereby the more honourably to performe some vow made, whence it was called *Legatio votiva*. The third is the office or title of an Embassadour, granted vpon speciall favour vnto a *Senatour*, that he might with the greater authority prosecute his private suits in law, or gather vp his debts in that Province whether he went, this last was tearmed *Legatio libera*. All three sorts are briefly touched by [m] *Toxua*.

[m] M. Toxita in orat. Phil. 1.

Cap. 7.

De Magistratibus.

L. *Cornelius Sylla* being *Dictator*, made a law, that all such as would follow him in the ciuill warre, should be capeable of any office or magistracy before they came vnto their full yeares. A second part of this law was, that the children of such as were *proscripti*, should bee made vncapeable of the *Roman* magistracies. Cic. in Pison.

Before they came to their full age] For *L. Villius* preferred a law, whereby he made such as were vnder age, to bee vncapeable of the city preferments: and those he accounted vnder age, who had not attained vnto that number of yeares which he had prescribed each seuerall office: [n] and this law was tearmed *lex annalis*.

n P. Ramus, in Agrar. 2.

Proscripti were such persons as were banished. For the fuller vnderstanding, looke Proscription in the tract of punishments. *Iulius Cæsar* did contrary to this law. *Admisit ad honores & proscriptorum liberos.* Sueton. *Iul.* 41.

Hircia lex.

Cic. Phil. 13. *A. Hircius* made a law, that all those that followed *Pompey*, should bee made vncapeable of all places of office.

Cornelia lex.

Cic. Philip. 2. *L. Cornelius Sylla* finding the *Prætores*, that is, the Lchiefe Iustices not to giue sentence alwaies according to equitie, yea sometimes to goe quite contrary to their owne Edict, made a law, that euery Lchiefe Iustice should administer iustice according to that his first Edict, hanged vp at the beginning of his office. An addition vnto this law was, that the Lchiefe Iustice should not be absent out of the city aboue ten daies.

Clodia lex.

Cic. pro Sext. In former times it was lawfull for either of the *Censors* to censure whom he pleased, and how he pleased, except his fellow *Censor* did plainely gainesay it, and make opposition therein. But many abusing this their authority. P. *Clodius Trib. Pl.* made a law, that the *Censors* should not ouerskippe any in their election of *Senatours*; neither should they brand any with disgrace, except such as had beene accused vnto them, and beene condemned by them both.

Valeria lex.

Cic. Verrin. 4. The office of a *Dictator* at the first institution continued but six months space, vntill *L. Valerius Flaccus* being *Interrex*

rex, in the vacancy of the *Conſuls* preferred a law, that *L. Cornelius Sylla* ſhould be a perpetuall *Dictator*.

Cornelia lex.

L. Cornelius Sylla in the time of his *Dictatorſhip*, did by vertue of a law preferred by him, clip the authority of the *Tribuni Pl.* diſabling them of bearing any office after the expiration of their *Tribuneſhip*, taking away their authority of preferring lawes, of vſing any ſolemne ſpeech, or publike oration vnto the people, of hearing appeales, of hindring any ſtatute, or decree tending to the hurt of the populacy. Cic. 3. de leg.

Cap. 8.

De legibus.

Cæcilia Didia lex.

Q. *Cæcilius Metellus*, & *Titus Didius* being *Conſuls*, forbad that *Vnarogatione*, that is, in one and the ſame bill many things ſhould bee propoſed vnto the people: leaſt by that meanes, the people by granting the whole bill, might grant ſomething which they would not; or in denying the whole bill, might deny ſome particular clauſe which by it ſelfe they would haue accepted. Moreouer theſe two *Conſuls* ordained, that before a law ſhould be asked in the aſſemblies it ſhould be promulged, that is, hanged vp to the publique view of the people three market daies. Cic. pro domo ſua ad pontif.

Iunia Licinia lex de trinundino.

M. *Iunius Silanus*, and *L. Licinius Murena* being *Conſuls* eſtabliſhed that law of *Cæcilius* & *Didius*, annexing a more ſeuere puniſhment for the breakers thereof. Cic. Philip. 5.

Clodia lex de interceſſione.

P. Clodius Trib Pleb. made a law, that the *Trib. Pl.* ſhould haue full authority, and power to propoſe lawes; neither ſhould they be hindred by the *Interceſſion*, that is, gainſaying of any. Cic. pro Sest.

Cic. pro domo ſua ad pont.

Licinia Æbutia lex.

Licinius and *Æbutius* being *Trib. Pl.* ordained that if any preferred a law touching the ouerſight, the charge, or cure of any buſineſſe in hand; neither he, nor any fellow-officer with him, nor any allied vnto him ſhould haue this ouerſight, or charge committed to him.

CAP. 9.

De Prouincijs.

Sempronia de Prouincijs.

C *Sempronius Gracchus Trib. Pleb.* ordained, that the Senate euery yeare before the election of their *Conſuls*, ſhould as it ſeemed beſt to them, appoint out what Prouinces the *Conſuls* now to be elected, ſhould after the expiration of their office goe vnto; for which Prouinces afterward the *Conſuls* deſigned ſhould caſt lots. Another clauſe to this law was, that whereas in former times, by a decree from the Senate, it was lawfull for the *Tribunes* to hinder the *Roman* aſſemblies, henceforward they ſhould haue no authority.

Cic. de prov. conſularibus.

Cornelia de Prouincijs.

Cic. ep. 9. ad Lentul.

L. Cornelius Sylla being *Dictator* preferred a law, that whoſoeuer went into a Prouince *cum imperio, tam diu illud imperium retineret, quoad in vrbem reuerſus eſſet*: whereas in former times his rule and gouernment was to be reſigned at the expiration of a ſet time appointed: yea although no ſucceſſor were ſent, yet could he not continue there *cum imperio* without a new commiſſion. A clauſe added vnto this law was, that after the comming of any new *Preſident* or Gouernour into the Prouince, the old *Prouinciall Preſident* ſhould depart within thirtie daies.

p Sig. de iur. Prou. l. 3. c. 13. q Sig. eiuſd. lib. cap. 6.

Eſſe cum imperio.] that is, p *Exercitui praeeſſe*, q *vel habere ius adminiſtrandi, & ſuis auſpicijs gerendi belli.*

Titia

Titia lex de Provincia.

Titius, or (as ſome ſay) *Decius* preferred a law, that the Provinciall Treaſurers called *Quæſtores*, ſhould caſt lots for their Provinces: whence *Tully* in the Oration now quoted inferreth, that although *Oſtia* being the better Prouince fell vpon *Sernius Sulpitius*, yet in as much as it fell *Lege Titia*, that is, by caſting lots, hee could not therefore challenge any ſuperiority aboue *L. Murana*, *Sed vtrumq; nomen conſedit in Quæſtura*, that is, their fame and renowne was equall in their *Quæſtorſhip*. Cic. pro L. Murzn. r Melanct. in orat. pro Murzna.

Iulia lex de Provincijs.

C. Iulius Cæſar eſtabliſhed two lawes touching the *Roman* Provinces: one that no *Prætor* ſhould goueme a Province aboue twelue months; nor *Proconſul* aboue two year. The ſeuerall heads or clauſes of his ſecond law could not all be found out, but thoſe which haue come to light are theſe. Firſt that *Achaia*, *Theſſalia*, and all *Græcia* ſhould bee free, neither ſhould any *Roman* Magiſtrate ſit in iudgement in thoſe Provinces (*Cic. pro domo*) Secondly, that the Provincial gouernours & their *Comites*, that is, aſſiſtants, or attendants ſhould haue hay, and all other neceſſaries prouided them on the way, by thoſe Townes and Villages through which they paſſed. (*Cic. in Piſon.*) Thirdly, that the Provinciall Magiſtrates at their departure, ſhould leaue a booke of their accounts in two Cities of their Province, and likewiſe ſhould ſend a coppy of their accounts vnto the *Roman* Treaſure-houſe (*Cic. in Piſon.*) Fourthly, that it ſhould neither be lawfull for the people to beſtow, nor for the Provinciall Magiſtrate to receaue *Aurum coronarium*, vnleſſe it were in a triumph. (*Cic. in Piſon.*) Laſtly, that it ſhould be vnlawfull for the Provinciall Magiſtrate without the allowance of the people or the *Senate*, to depart out of their Province, to lead forth any army, to wage warre, or to goe into any forraine country. (*Cic. in Piſon.*) Cic. Philip. 1.

Aurum coron.] There was a cuſtome among the *Romans* in (*Lipſ. de mag. Rom. l. 2. c. 9.*

in times of victory to preſent vnto the L. Generall Coronets of gold, inſteed whereof the after-ages preſented a certaine ſumme of mony, which was thence called *Aurum coronarium.*

Vatinia de Provincijs.

Cic. pro Balb. P. *Vatinius Trib. Pl.* procured a law, that *Iulius Caſar* ſhould haue the gouerment of *Gallia Ciſalpina*, and *Illyricum* for fiue yeares ſpace, without any decree from the *Senate*, or caſting lots. Secondly, that they alſo ſhould goe as Legates, or L. Deputies vnto *Caſar*, without any decree from the *Senate*, whoſoeuer were nominated in that law. Thirdly, that *Caſar* ſhould receaue mony out of the common Treaſure-houſe towards hauing an army. Laſtly, that hee ſhould tranſplant a Colony vnto a certaine towne of *Ciſalpina Gallia*, called *Nouocomum.*

Clodia de Provincijs.

Cic. pro Dom. P. *Clodius* being *Trib. Pleb.* procured a law, that the gouernment of *Syria*, *Babylon*, and *Perſia* ſhould be committed to *Gabinius*. The gouernment of *Macedonia*, *Achaia*, *Theſſalia*, *Græcia*, and all *Boetia* ſhould be committed vnto *Piſo*; and they ſhould receaue together with an army, mony out of the common Treaſurie towards their iourny.

Clodia altera de Cypro.

Cic. pro Sext. P. *Clodius* preferred another law, that the Iland *Cyprus* ſhould be made a Prouince. That *Ptolemæus* the king of *Cyprus* ſitting in his purple, with his ſcepter & other his princely ornaments, *Præconi publico ſubijceretur, & cum bonis omnibus publicaretur*, that is, ſhould himſelfe with all his goods be ſold by a common cryer. That *M. Cato* being then Treaſurer, *cum iure Prætorio, adiecto etiam Quæſtore*, hauing by commiſſion the office of a L. chiefe Iuſtice, & another Treaſurer to accompany him, ſhould bee ſent into the Iland *Cyprus*, both to make ſale of the kings goods & eſtate, and alſo to bring backe the money. Laſtly, it was decreed by this law, that thoſe who liued in exilement at *Byzantium* being condem-

condemned for ſome capitall crime, ſhould be brought back vnto the citty, vnder the name of *Romanes*.

Præconi publico ſubijceretur.] For the better vnderſtanding of that phraſe, we are to vnderſtand the manner of port-ſale amongſt the *Romanes*: which wee may read in *Sigonius* thus. Thoſe things were rightly ſold in port-ſale, which were publikely ſold *Per præconem ſub haſta*, that is, by the cryer vnder a ſpeare ſticked vp for that purpoſe, and ſome Magiſtrate making good the ſale by deliuery of the goods. Whēce I take *Publico præconi ſubijci*, and *Haſta ſubijci*, to ſignifie one and the ſelfe ſame thing, namely, to be ſet at ſale: and [t] *Cicero* vſeth almoſt the ſelfe ſame phraſe, *Bona Cn. Pompeij, voci acerbiſſimæ ſubiecta præconis*. This kinde of ſale was tearmed *Auctio*; becauſe as *Sigonius* ſaith in the ſame place, to him the goods were ſold, *Qui plurimum rem augeret*, that is, which would bid moſt for it: and hence is the ſeller thereof tearmed *Auctor*, as [u] *Cic. Id quod à malo auctore emiſſent*, that is, that which they had bought of one which had no authority to ſell: and from this cuſtome of ſetting vp a ſpeare in this kinde of ſale, this word *Haſta* alone is vſed to ſignifie port-ſale, as [x] *Haſta Cæſaris*, the ſale of *Cæſars* goods. Thoſe who bought theſe goods [y] *Tully* doth call *Sectores* [z] *quia ſpem lucri ſui ſectabantur*. In ſuch kinde of ſales a catalogue or note of the goods to be ſold was hanged vp in tables for the publique view of paſſengers. Whence ſuch goods were tearmed *ſuſpenſa bona*. And if any friend would redeeme the goods, then did he *deijcere libellos*, that is, put in bands and ſecuritie to anſwere the matter. The phraſe is vſed by *Tully Cic. pro Quintio*. And alſo by *Seneca, de benef. lib. 4. cap. 12. Suſpenſis amici bonis libellum deijcio, creditoribus eius me obligaturus*. It is thus explained by *Turnebus adv. l. 12. cap. 9*. If the ſale proceeded on, then ſuch as propoſed to be chapmen, ſignified their deſire by holding vp their fingers: whence *Digitum tollere* ſignifieth the deſire of buying ſuch goods. *Alex. ab Alex. lib. 4. cap. 26.*

t Cic. Phil. 11.

u Verrin. 7.

x Cic. Phil 8.

y Cic. in Ver.

z Sig. de iud. lib. 2. cap. 24.

Cap. 10.

De legibus Agrarijs

THoſe lawes were tearmed *Leges Agrariæ*, which did concerne the diuiſion of the publique, or common fields. And theſe were either giuen by *Romulus* and other kings; or taken from the enimies, or from priuate men which had made incloaſures; or laſtly bought out of the common Treaſurie. *Vid.*[a] *Sigon.*

[a] Sig. de iure Ital. l. 2. c. 2.

Sempronia lex Agraria

Titus Sempronius Gracchus Trib. Pleb. preferred a lawe which forbad, that any of the *Romans* ſhould haue to his owne part aboue fiue hundred acres of the common fields, the one halfe of which it was lawfull for his ſonnes to enioy. If it had ſo hapned that any ſhould enlarge theſe common fields, three ſuruayers called the [b] *Triumviri agro dividundo*, did marke out which was common, which priuate ground. Moreouer it was by this law prouided, that the mony of king *Attalus* who made the people of *Rome* his heire might be beſtowed vpon thoſe cittizens, which had by this law obtained a part of the common fields, to the buying of inſtruments for husbandry. Moreouer that the kings lands ſhould be farmed out at a ſet rent by the *Cenſors*, whence an yearely tribute ſhould be paid to the people.

Cic. pro Sext.

[b] Sig. de iure Ital. l. 2. c. 2.

Cornelia lex.

L. Cornelius Sylla being *Dictator* preferred a law, that all the fields of thoſe *Romans* which he had baniſhed, ſhould be common. This publication is to be vnderſtood chiefly of thoſe fields in *Thuſcia*, neere vnto the Citty *Volaterra*, & the citty *Feſula*, which grounds *Sylla* diuided amongſt his ſouldiers.

Cic. in Rullum.

Cap. 11.

De frumentarijs legibus.

Sempronia lex.

THe *Sempronius Gracchus* being tribune of the commons provided, that a certaine quantity of corne should monthly be giuen vnto the poorer sort at a low price. *Semisse & triente*, that is, about six pence farthing a bushell. Hereupon was there a place appointed in *Rome*, for the keeping of this common corne, together with certaine lawes hanged vp there called *leges frumentariæ*. This place was called [e] *Horrea Sempronia*. The quantity of corne laid vp in euery Citty for this purpose is by the latter Lawyers tearmed *Canon*: as *Canon Alexandrinus*, *Canon vrbis Romæ*. *&c. vid. Stuk. de conviv. lib. 1. c. 35.* Cic. pro Sext.

e Rosin. ant. lib. 8. c. 12.

Semisse & triente] It appeareth by the next law, that *Semissis* in this place, must signifie the same as *senis aris* doth there. Whereby wee may note, that *semissis* doth not alwaies signifie the halfe part of the *Romane* coyne called *As*, but sometime it signifieth a greater coine valuing almost our six-pence.

Clodia lex.

P. Clodius Trib. Pl. ordained, that that corne which heretofore was sould to the poore *senis aris & trientibus in singulos modios*, that is, for six pence farthing a bushel, should hereafter be giuen *gratis*, & the charge and ouersight of this dole was committed to *Sext. Claudius*.

Terentia Cassia.

Cic. pro Sext. in Pisone. Cic. Verrin. 5. & 7.

M. Terentius and *C. Cassius* being *Consuls* preferred a law, *Vt altera decuma à provincijs coemerentur, pretio in singulos modios HS trium constituto. Item vt ciuitatibus æqualiter imperaretur, pretio in singulos modios HS quatuor constituto.*

For the better vnderſtanding of this law, wee muſt note
[d] Sig. de iure Prov. l. 1. c. 1. a threefold tithe payd by the Provinces. The firſt was the tenth part of the graine, growing in the Province to be paid in *gratis*, and that was properly called *Decuma*, or *frumentum Decumanum*, and thoſe that tooke this tithe to rent were called thence *Decumani*. A ſecond ſort of tithes was a certain quantitie of corne taken vp for the L. Preſident or chiefe gouernour of the Prouince, to keepe his houſe, and that was called *Frumentum æſtimatum*, that is, corne gathered vp by way of taxation: for ſo this word *æſtimo* comming from *æs* doth ſignifie. [e] *Eſt autem æſtimare ab ære dictum, id quod vulgo dicunt appreciare & taxare*. The third ſort of tithes, was when the *Senate* finding ſcarcity of corne in *Rome*, did inioyne the Prouinces to ſell them a quantity of corne at a priſe ſet downe by the *Senatours* themſelues; and this corne ſold vpon iniunction if it was paid but once in the yeare, it was tearmed *Frumentum emptum*: but if in the ſame yeare a ſecond ſale was inioyned them, then they called that ſecond pay *Frumentum imperatum*. In the firſt clauſe of this law by [*alterâ decumâ*] is meant *Frumentum emptum*; in the ſecond clauſe, by theſe words [*ciuitatibus æqualiter imperaretur*] is vnderſtood *Frumentum imperatum*.

[e] Fr. Sylv. in orat. pro Cluentio.

Lex Hieronica.

Cic. Verrin. 4. *Hiero* king of *Sicily* obtained a law, wherein was ſet down the quantity of corne that the *Aratores* or country farmers ſhould pay vnto the *Publicani*, that is, thoſe which receaued the tithes, together with the time of payment and the price agreed vpon.

Cap. 12.

De legibus ſumptuarijs ſive cibarijs.

IN ancient times there was a commendable frugality among the *Romanes* in their feaſts, but after ages grew to immoderate exceſſe therein, ſo that whole Goates and Boares

Boares &c. were set on the table at one time. Such a hogge thus dressed *Cincius* was wont to call [a]*Porcum Troianum*, alluding to the *Troian* horse; because the belly thereof was stuffed with variety of fowle and rabbets, & such like, as the *Troian* horse was with armed men. This kinde of excesse *Tiberius Cæsar* laboured to redresse, by serving at table his cold halfe-eaten dishes at solemne feasts, vsing this proverb [b] *Diuidiatus aper omnia eadem habet quæ totus*. Hence also men of seuerer discipline enacted lawes termed *Leges sumptuariæ*, or *Cibariæ*, which prescribed a moderation, not onely for the charges in their greatest feasts, that they should not exceed such and such summes of mony, but also for the guests to be inuited, that they should not exceed such a number. The chiefe of these lawes were these that follow.

[a] Stuk de conviv. lib. 3. c. 3.

[b] Suet. Tiber. 34.

Lex Orchia.

C. *Orchius* being protector of the commons, by the consent of the *Senate*, the third yeare before *Cato* was *Censor*, preferred a law, whereby he only moderated the number of guests, without any limitation of the charges or superfluous expence at feasts.

Lex Fannia

Twentie two yeares after *Orchius* his law C. *Fannius* being *Consul* enacted another, for the moderating of expences, allowing: *Non plures denis assibus* to bee spent in their ordinary feasts: But vpon those more solemne feasts dedicated vnto *Saturne*, and from thence called *Saturnalia*, likewise when any publique games were exhibited to the *Roman people*, he then allowed *Centum asses*, ordaining that no other fowle should then be dressed but only one henne, & that not fatted for the purpose.

Non plures denis assibus] The *Roman* coyne *As* was so called [c] *quasi æs*. because the matter thereof was *brasse*; [d] at first it consisted of a full pound weight; afterward in the first *Punick* warre, by reason of the scarcity of mony, they made of euery pound of brasse sixe of these coynes, each valuing as

[c] Varro lib. 4. de ling. Latina

[d] Plin. l. 33. c. 3.

much as they did at firſt. In the ſecond *Punick* warre then were twelue made of every pound; at laſt by vertue of a law which *Papirius* enacted, foure and twenty were made of a pound; and ſo they continued; the value alwaies remained the ſame, *videl:* ob. q^r. ſo that to allow but ten of theſe to a feaſt, ſeemeth a matter altogether vncredible, but conſider with the frugality the cheapnes of thoſe times, it may bee [e] graunted for a truth; [e] for tenne of theſe were the price of a ſheepe, and an hundred the price of on oxe.

e A. Gell. l. 11. cap. 1.

Lex Didia.

Eighteene yeares after *Fannius*, *Didius* ordained that the former ſumptuary lawes ſhould be of force, not onely in *Rome*, but throughout *Italy*; Moreouer that not only the feaſt-maſter tranſgreſſing, but all the gueſts ſhould be liable to the penalty.

Lex Licinia.

P. Licinius Craſſus preferred a law in a manner agreeing with the *lex Fannia*, whereby he rather confirmed *Fannius* his law being now anticquated, then made an new.

Lex Cornelia.

Cornelius Sylla being *Dictator* ordained a law for the price of meates, ſo that he was thought by cheapnes of vittayles to encreaſe, rather then to reſtraine ſuperfluities at feaſts.

Lex Antia.

Antius Reſtio preferred a vſefull law, to moderate expenſes in feaſting, which notwithſtanding was violated, and in a manner abrogated, by the contrary practiſe of the Citizens in generall. For which cauſe, *Reſtio* afterward being invited, would neuer come to any feaſt, becauſe he would not be an ey-witneſſe of the contempt of that law, which himſelfe had cauſed. If any deſire to ſee more lawes of this nature, let him read *Stuk. conviv. lib. 1. cap. 3. Aul. Gell. lib. 2. cap. 24.* And *Macrob. Saturn. lib. 3. cap. 17.*

CAP. 13.

Cap. 13.

De re militari & bello.

Gabinia lex.

A *Gabinius Tr.Pl.* preferred a law that the managing of the war against the Pyrats should bee in such manner committed vnto *Pompey* for three yeares space, that ouer the whole sea betweene *Hercules* his pillars, and in the maritime provinces vnto the foure hundreth *Stadium* from the sea, he shou'd haue power to command any Kings, L. Presidents, or whole corporations to furnish him with all things necessary to that warre. Cic. pro lege Manilia.

Manilia lex.

C. *Manilius Trib. Pleb.* perswaded a law, that the managing of warre against *Mithridates* should be committed vnto Cn. *Pompeius*. That the whole Province where L. *Lucullus* ruled together with his whole army should be resigned vp vnto him. Moreouer that *Bithinia*, where *Glabrio* ruled, should be added, together with all those bands and forces, which hee had vpon the sea against the Pyrats, and all those provinces, over which the law *Gabinia* did entitle him governour, as *Phrygia, Lycaonia, Galatia, Cappadocia, Cilicia, Colchis superior*, and *Armenia*. Cic. pro lege Manilia.

Cap. 14.

De Tutelis.

THis word *Tutela* doth signifie a wardship, guardianship, or protection of a child in his nonage: whereof [f] *Camerarius* obserueth foure sorts, & we may with *Pellitarius* adde the fift. Either the ouerseers were appointed by will; or else the next of the kinne were ouerseers; or the magi- [f] I. Camerar. in orat. pro L. Flacco.

magiſtrate did appoint whom he thought fit: and theſe three
[g] I. Omphal. in orat pro Cæcinna. ſorts [g] *Omphalius* calleth thus: the firſt *Teſtamentariam*, the ſecond *Legitimam* the third *Datiuam*. The fourth ſort *Camerarius* calleth *Tutelam fiduciariam, quæ eorum eſt, qui emancipati deſiſſent eſſe agnati*. the fift [b] Pellitarius calleth *Tutelam honorariam*, namely, when as the office of adminiſtration is committed to others, but yet certaine chiefe overſeers were appointed to ſee the will performed, who were called *Tutores honorarij*. [i] Where wee muſt note, that the law provided ouerſeers, not for children vnder age only, but for women alſo.

[b] Pellitarius pro Cæcin.

[i] Cic. pro Muræn.

Emancipati deſiſſent eſſe agnati] By the *Roman* law euery ſonne was in ſuch ſubiection vnto his father, that before hee could be releaſed of this ſubiection, and made free, he ſhould by an imaginary ſale [k] be ſold three times by his naturall father to another man, who was called by the lawyers [l] *Pater fiduciarius*, that is, a father in truſt; yea and be bought againe by the naturall father, and ſo manumiſed by him, and then he became free. The forme of this kind of ſale or alienation is ſet downe more at large in the explanation of one of the lawes that followeth, with an example not much vnlike this. This imaginary ſale was called *Mancipatio*, the children thus alienated from the father were tearmed *Emancipati*; this forme of ſetting free was tearmed *Emancipatio*. This *Fiduciaria tutela* then, in my opinion was thus. That when any goods did fall vnto a child thus alienated, by the death of his father, then ſhould not the ouerſight of this child fall vnto the next of the kinne, tearmed *Agnati*, but *Quoniam deſiit eſſe agnatus*, that is, becauſe he had in a manner loſt his alliance with his kindred, therefore ſhould the ouerſight of the child belong vnto the father in truſt, tearmed *Pater fiduciarius*, whence the gardianſhip it ſelfe was called *Tutela fiduciaria*.

[k] Vid. leg. 12. tabul.

[l] Sig. de iure. Rom. l. 1. c. 10.

Latoria lex.

C. 3. de offic.

This law made by *Latorius* provided, that there ſhould be ouerſeers appointed for thoſe which were diſtracted, or did

did prodigally waſt their patrimonie. For, as it appeareth by the common adage, *Ad agnatos & Gentiles deducendus eſt*, they did account all prodigals, mad men: they meaning no more by that, then we doe by our engliſh prouerb, when we ſay of a ſpend-thrift: let him be begged for a foole. The reaſon of their adage was, becauſe if any were diſtracted, by the *Roman* law his wardſhip fell *Ad agnatos & Gentiles*, that is, to the next of the kindred.

Cap. 15.

De Teſtamentis.

BEfore we deſcend vnto the lawes themſelues, we will explaine thoſe three diuers ſorts of wills in vſe amongſt the *Romans*. Namely *Teſtamentum calatis comitijs*; which was ſo called, becauſe twice in the yeare in time of peace the *Roman* people aſſembled themſelues together to this end and purpoſe, that if any would make his will, the whole people might beare witneſſe therevnto: theſe aſſemblies were tearmed *Calata comitia*. Secondly *Teſtamentum in procinctu*, that is, when a ſouldier in time of warre ready to giue battle, did call out three or foure of his fellowes, and in the audience of them did by word of mouth pronounce his laſt will and teſtament. Thirdly, *Teſtamentum per emancipationem familiæ*, that is, by making ouer his goods and poſſeſſions vnder a fained forme of ſale, vnto a ſecond party called *Heres fiduciarius & imaginarius*, that is, an heire in truſt, who ſhould afterward reſigne them vnto the true & lawfull heire: and this imaginary kinde of ſale, was performed with certaine ſolemnities *circa æs & libram*, and alſo the ſale it ſelfe was ſometimes called *Nexus*, as likewiſe *Emancipatio*. Hence was the will ſometimes called *Teſtamentum per æs & libram*, ſometimes *Teſtamentum per Nexum*. For the proofe of this, which hath been deliuered, touching the three ſorts of wils I

[m] Sig. de iure Rom. l. 1. c. 12.

will referre the reader to [m] *Sigonius.*

Furia lex.

Cic. Verrin. 3.

C. *Furius Trib. Pleb.* made a law, that it ſhould not be lawfull for any to giue away in way of legacy, vnto any, except to the kinſmen of him which manumiſed him, or ſome other certaine perſons *ſupra mille aſſes*, that is, aboue fiftie ſhillings or thereabout, there going two *Aſſes & ſemis* to the making of one *Seſtertius.*

Voconia lex.

Cic. Verrin. 3.

Q. Voconius Saxa Trib. Pleb. tulit legem, Ne qui cenſus eſſet, virginem, neve mulierem ſupra quadrantem ſuorum bonorum haeredem inſtitueret, pluſve cuiquam legaret, quàm ad haeredem, haeredeſve perveniret.

Cenſus.] This word *Cenſus* doth ſometimes ſignifie all ſuch as haue tendred the iuſt valuation of their eſtate vnto the *Cenſors*: and then *Incenſus* is oppoſite to it, ſignifying ſuch an one, as hath not tendred his eſtate or name to be regiſtred by the *Cenſors.* But in this place *Cenſus* is taken for ſuch a rich man, whoſe eſtate was in the *Cenſors* book valued at one hundred thouſand *Seſterces.* (*Vid. Aſconium in Verrin 3.*)

Supra quadrantem ſuorum bonorum] that is, No woman ſhould be heire to more then one quarter of ſuch a richmans goods. For the right conceauing of this, we muſt note with [n] *Latomus*, that the whole inheritãce (were it neuer ſo great) was tearmed *As*, and that was divided into twelue parts, which the lawyers called *Uncia*: *Duæ vnciæ dicebantur Sextans, tres Quadrans, quatuor Triens, quinq; Quincunx, ſex Semiſſis, ſeptem Septunx, octo Beſſis, nouem Dodrans, decem Decunx, vndecim Deunx, Totum As, vt dictum eſt*, Againe every *Uncia* was divided into ſix parts called *Sextulæ*: *Duæ ſextulæ Duellam, tres Semunciam faciunt.* So then according to the lawyers (as [o] *Alexander* obſerueth) if there were one heire alone inſtituted, he was tearmed *Hæres in Aſſem totum inſtitutus*; if otherwiſe there were many co-heires, then was it according

[n] Bárth. Latom. in orat. pro Cecinna.

[o] Alex. Gen. dier. l. 1. c. 1.

cording as the *Teſtator* did appoint. Some were *ex Deunce haredes*, that is, heires to eleuen parts of his goods, there being but one part beſtowed from him: ſome were *haredes ex quadrante*, that is, heires to one quarter of his goods: others were *Haredes ex ſemuncia*, that is, they had the foure and twentieth part: others were *Sextula aſſeris*, that is, they had the threeſcore and twelfe part of the whole *As*, that is, of the whole inheritance, be it more or leſſe, &c. Here we muſt vnderſtand, that there is great difference betweene theſe two phraſes, *Inſtituihæres in totum Aſſem, & ex toto Aſſe.* For all thoſe, which were nominated *Haredes*, whether it were *ex Dodrante, Quadrante, vel Semuncia*, or howſoeuer, yet were they tearmed *Haredes ex toto Aſſe*, that is, they were not *Legatarij*, ſuch as receaued legacies. Now none can be ſaid *In totum aſſem inſtitui*, but he which is the alone and ſole heire vnto the whole.

Cap. 8.

De vſu-capione.

Atinia lex.

Atinius made a law, that the plea of preſcription or long poſſeſſion ſhould not availe in things that had beene ſtolne, but the intereſt which the right owner had in thoſe ſtolne goods, ſhould remaine perpetuall. The words of the law are theſe: *Quod ſurreptum eſt, eius rei aterna auctoritas eſſet.* Whereby [p] *auctoritas* is meant *ius dominij*. This crime of theft, as likewiſe of vſury, was ſo odious vnto the *Romans*, that whoſoeuer was found guilty thereof was condemned [q] *Lege quadrupli*, that is, to pay foure times as much: whence the informers againſt ſuch, were tearmed *Quadruplatores*.

Cic. Verrin. 3.

[p] Sig. de iure Rom. l. 1. c. 11.

[q] Fr. Sylv. in Verrin. 1.

Cap. 17.

De Iudicibus, & Iudicijs.

Lex accuſatoria.

Cic. pro Mur. *Tully* mentioneth a law tearmed *Lex accuſatoria*, which in truth was no law, neither was there any author thereof: but there was ſuch a receaued cuſtome amongſt the *Romans*, that the accuſer ſhould obiect againſt the party accuſed, not onely the preſent crime then queſtioned, but all other ſcapes and faults committed long before to the bettering of his matter: that at length this accuſatory cuſtome became in manner of a law, and ſo was called *Lex accuſatoria*. vid. *Franc. Syluium in orat. pro Mur.* [r] Their cuſtome alſo was to procure others to ioine with them in their accuſations; thoſe [ſ] *Tully* calleth *Subſcriptores*, becauſe they did ſubſcribe vnto the accuſation.

r Alex. Genealier. l. 3. c. 5.

ſ Cic. pro Murana.

Lex Seruilia & Sempronia.

Curio in orat. pro Scauro. Whereas *Sempronius* had preferred a law, whereby hee tooke away the authority of ſitting in iudgement from the *Senatours*, and appropriated it to the *Roman* Gentlemen; *Q. Seruilius Capio* being *Conſul* did afterward preferre another law, whereby the adminiſtration of iudgement was diuided betweene the Senatours and the Gentlemen.

Rupilia lex.

Cic. in Ver. *Rupilia lex vetabat diebus triginta ſortiri dicam.*] Here we muſt note with [t] *Sigonius*, that this law was of force only in the prouince of *Sicilia*: alſo that it is one thing *ſcribere dicam*, that is, to enter an action, another *ſortiri dicam*, that is, by lots to chooſe the Iudges, which was 30. daies after.

t Sig. de iure Prou. l. 2. c. 5.

Liuia lex.

Cic. de orat. l. 3. Though by vertue of *Seruilius* his law the *Senators* were made capeable of the office of a Iudge, yet they were not thereby

thereby equally capable with the Roman Gentlemen: and therefore did *M. Livius Drusus* ordaine, that the Iudges ſhould be elected equally out of both orders, namely three hundred out of the *Senate*, and three hundred out of the Gentry.

Plautia lex.

M. Plautius Sylvanus preferred a law, that the number of Iudges ſhould be choſen not onely out of the *Roman Senators* and Gentlemen, but out of the populacy alſo, namely out of every Tribe fifteene Iudges. Cic. pro Corn.

Aurelia lex.

L. Aurelius Cotta being *Prætor* made a law, that the Iudges ſhould be choſen out of the *Senators*, the Gentlemen and thoſe Martiall Treaſurers or Clearks of the band called *Tribuni ærarij*. Cic. in Verr. ſæpe.

Pompeia lex.

Cn. Pompeius Magnus being Conſul ordained, that the Iudges ſhould be elected out of the wealthieſt *Centuries*, tying the election notwithſtanding to thoſe three degrees of people, namely *Senatours*, Gentlemen, and Martiall Treaſurers; alſo hee added that the number of Iudges to examine cauſes ſhould be ſeauentie and fiue. Cic. in Piſon.

Iulia lex.

C. Iulius Cæſar ordained, that the election of Iudges ſhould be out of the *Senators* and Gentlemen only, leauing out the Martiall Treaſurers; and this *Tully* calleth *legem Iudiciariam Cæſaris*. Cic. Philip. 1.

Antonia lex.

M. Antonius tulit legem, vt tertia iudicum decuria è Centurionibus, Anteſignanis, Alaudis, Manipularibus fieret. Cic. Philip. 1. & 5.

Iudicum decuria:] When the L. chiefe Iuſtice had takē his oath, he choſe out ſome *ex certis ordinibus, nō ex omni populo*; that is out of ſuch degree and place, as the law required, to ſit in iudgement on thoſe caſes, which were tearmed *cauſæ publicæ*: and theſe Iudges hee afterward diuided into leſſer

numbers called *Decuria.vid.Sigon.de iure Rom.lib.2.c.18.*

E Centurionibus.] *Centuriones* were Captaines ouer an hundred footmen.

Anteſignanis.] This word *Anteſignanus* hath a double acception in the *Roman* hiſtories. Sometimes *Anteſignani* doe ſignifie the third part of the *Roman* army: For all thoſe ſouldiers that fought before the banners or enſignes, as they were called *Haſtati* in reſpect of their weapon, ſo were they called *Anteſignani* in reſpect of their enſignes, before which they fought. The ſecond part of the army, as they were called *Principes* in reſpect of their proweſſe and valour, ſo were they called *Subſignani*, as fighting vnder the enſignes. The third part, as they were called *Triarij*, becauſe they fought in the third, or reareward, ſo were they called *Poſtſignani*, as fighting behind the enſignes. Where we muſt not think, that thoſe which were called *Anteſignani* and *Subſignani*, were altogether deſtitute of enſignes among themſelues: (for euery Maniple had his enſigne:) But the Eagle, and other chiefe enſignes were carried by the *Subſignani*, and in reſpect had to them they had their names. And hence ariſeth the ſecond acception of this word, namely that all thoſe ſouldiers of every Maniple, which ſtood in front before their enſigne were called *Anteſignani*, and thoſe were commonly the beſt ſouldiers in the company. See for the ſeuerall proofes of this, *Lipſ.milit.Rom.lib.2.dial.3.*

Alaudis.] *Iul. Ceſar* preſſed a legion of ſouldiers out of *Gallia Tranſalpina*, all which afterward hee made free of *Rome*. This legion he called *Legionem Alaudarum*, from the forme of their helmets, which did reſemble the head of the Larke, called in French *Alauda*. *Barthol.Latomus in Phil.1.*

Manipularibus.] Thoſe Captaines which gouerned a Maniple of ſouldiers, were called *Manipulares*. *Fr. Maturantius in Phil.1.*

Lex Cincia de donis & muneribus.

M.Cincius being protector of the Commons, *M.Cornelius*

lius Cethegus, and *P. Sempronius Tudstanus* being *Conſuls* preferred a law, that no man ſhould receaue gift or bribe from his client for pleading his cauſe. Of this we read in *Plautus*, & he called it *Legem muneralem*: alſo in *Tully de Senect.*

Cornelia lex.

L. Cornelius Sylla preferred a law, that the chiefe iudge of the bench called *Index Quæſtionis*, ſhould referre it vnto the choice of the defendant, whether he would haue iudgement paſſed on him *Clam an Palam*, that is, (as *Sylvius* obſerueth either by voices or by tables. Cic. pro Cluentio.

Memmonia lex.

This law (made by *Memmius*) provided, that no action ſhould be entred againſt thoſe, who were imployed abroad in buſineſſes for the common-wealth. An addition vnto this law was, that whoſoeuer ſhould *calumniari*, that is, forge an accuſation againſt another, a certaine letter ſhould be burnt in his forhead in token of infamy. This law is ſometimes called *Lex Rhemnia*. Here wee may with [u] *Fr. Sylvius* obſerue the difference of theſe three phraſes, *Calumniari*, *Prævaricari*, and *Tergiverſari*. He which doth in his accuſation forge faults neuer committed, is ſaid *Calumniari*. Hee which vndertaketh ones ſuit, and either will not vrge reaſons in the behalfe of his client, or anſwere the obiections of his aduerſary when he is able, is ſaid *Prævaricari*, that is, to play the falſe *Proctour*. He which doth deſiſt in his accuſation, and let his ſuit fall, is ſaid *Tergiverſari*. Cic. in Vatin. Cic. pro Sext. Roſcio. [u] Fr. Sylv. in orat. pro Cluentio.

Lex incerta de Nexu.

In iis rebus quæ mancipi ſunt, in periculum iudicij præſtare debet, qui ſe nexu, obligauit, that is, if the buyer of any thing in that forme of ſale called *Nexus* be troubled in law, the ſeller thereof muſt ſecure him, and ſaue him harmeleſſe. Cic. pro Mur.

Mancipi ſunt] [x] Thoſe things were tearmed *res Mancipi*, which were alienated from the ſeller *Nexu*, that is, by ſuch a forme of ſale as followeth. The forme was thus; At the leaſt fiue witneſſes, all *Romane* Cittizens and of full age, beſides [x] Fr. Sylv. in orat pro Mur.

ſides one called *Libri-pens* (from holding of a paire of ballances) ſhould be preſent: and the chapman or buyer ſhould come with a certain braſſe coyne in his hand, and ſay (for example ſake, if it were a bondſlaue to be ſold) *Hunc ego hominem ex iure Quiritium meum eſſe aio, iſq; mihi emptus eſt hoc ære*, & forthwith ſtriking the ballance with the braſſe coyne he gaue it to him that made the ſale. This kinde of chaffering was tearmed *Nexus*, as wee may ſuppoſe *á nectendo*, becauſe it did binde the ſeller to make good the ſale: ſometimes it is called *Per æs & librum venditio*, becauſe of the ceremonies vſed in it. [z] Now it is commonly called *Mancipatio* [a] *á manus capione*, from taking that which is ſold into ones hands or poſſeſſion: whence the word *Mancipatus*, and *Mancipium* are vſed to ſignifie a bondſlaue, that is in this manner ſolde; though ſometimes *Mancipium* doth ſignifie the ſale it ſelfe: whence *Cic.* vſeth this phraſe, *Lex Mancipij*, to ſignifie a clauſe or condition put in the ſale. All things ſold after this manner were tearmed *Res mancipi*; [b] The word *Mancipi* being a nowne indeclinable, as *Frugi, Cordi, Huiuſmodi &c.* and from this forme of ſale, the morgaging of land for the payment of mony may ſeeme to be called *Mancipatio fiduciaria*; He which did thus receaue the morgage, or land in way of ſecuritie, is ſaid *accipere fiduciam. Cic. orat. pro L. Flacco.* Vpon which place ſaith *Lambinus* in his annotations. *Accipere fiduciam, eſt fundum, aut aliam rem ſoli, ſeu vt appellant immobilem, ab aliquo mancipare, ſeu accipere ea lege, vt cum ille repetat ei remancipet.* We may conect the reaſon of theſe ballances, why they ſhould be vſed in this kinde of bargaining, to be, becauſe in old time they did not bargaine by paying coined mony, which was called *Æs ſignatum*, but by paying a certaine weight of mony, whence ſuch mony was tearmed *Æs graue*. And hence it is, that metaphorically we tranſlate *Pendo* and *rependo*, to pay and repay.

[y] Sylv. ibid.

[z] Melanct in orat. pro Mur. [a] I. Camerar. in orat. pro Muræn.

[b] Priſcian l. 3. vid. Fr. Sylv. in orat. pro Mur.

[c] Alex. Gen. dier. l. 4. c. 15.

CAP. 18.

Cap. 18.

De Maieſtate.

Lex Varia.

Q. Varius Trib. Pl. made a law, that the *Praetores Quaeſitores* ſhould ſit in iudgement vpon thoſe, by whom the Allies or Aſſociates had beene moued to attempt warre againſt the *Roman* people. Cic. pro Corn.

Iulia lex.

C. Iul. Caeſar ordained, that ſuch as were condemned of treaſon, or cauſing vproares in the common wealth, ſhould bee baniſhed. Cic. Philip. 1.

Cap. 19.

De ambitu.

THoſe lawes were tearmed *Leges de ambitu*, which were made againſt vndirect or vnlawfull courſes vſed in canvaſſes for offices.

Fabia de Ambitu.

This *Lex Fabia* reſtrained the number of thoſe poore men, who becauſe they were wont to follow vp and downe, & all the day to attend ſuch as did ſtand for offices, were thence called *Sectatores.*

Acilia Calpurnia.

M. Acilius Glabrio, and *C. Calpurnius Piſo*, bein *Conſuls* made a law, that ſuch as were conuinced of ſiniſter and vndirect meanes vſed in their canuaſſes, ſhould be fined at a certaine ſumme of mony ſet on their heads, and they ſhould be made both vncapable of bearing office, and vneligible into a *Senators* place. Cic. pro Muræn.

Senatus conſultum de Ambitu.

Cic pro Mur. *M. Tullius Cic.* and *C. Antonius* being *Conſuls*, a certaine decree was made by the *Senate*, that if ſuch as did either ſalute or attend vpon thoſe which ſtood for offices, were hired by any manner of reward; or if any publike prizes were occaſioned to be plaid; or any publike feaſts made by them, they ſhould be liable to the cenſure of *Calpurnius* his law.

Tullia lex.

Cic. pro Sext. *M. Tullius Cic.* made a law, that no man ſtanding for an office ſhould cauſe any publike prize to be plaied, within two yeares that he either had ſtood, or ſhould ſtand for an office, vnleſſe the day had formerly beene appointed by ſome will. *Item*, he ordained, that *Senators* being found to haue vſed vnlawfull meanes for the attaining of any office, ſhould ſuffer ten yeares exilement. And the commonaltie offending in that point, ſhould be puniſhed with an heauier puniſhment then the law made by *Calpurnius* laid on them. An addition vnto this was, that if any being cited to his anſwere in the court of their vndirect meanes, *Si morbum excuſaret*, that is, If he did vrge his ſickneſſe for his not appearance, then ſhould he vndergoe a penaltie.

Si morbum excuſaret] So that *Tully* here ſeemeth to cut of that liberty which the twelue tables permitted in theſe words [*Si Index alterve ex litigatoribus morbo ſontico impediatur, iudicij dies diffiſus eſto.*] that is, If either Iudge, Plaintiffe, or Defendant were ſicke, they ſhould *diffindere diem, id eſt, proferre & in alind tempus reijcere*, prorogue the time of iudgement. And vnleſſe ſome might thinke, that by *morbus ſonticus* was meant ſome ſtrange deſeaſe, *Sigonius* inferreth that euery deſeaſe is tearmed *Sonticus*, which hindreth vs in the performance of our buſineſſes: *Sontes enim nocentes dicunt.*

a) Sig. de iud. lib. 1. cap. 28.

Licinia de Sodalitijs.

Cic. pro Plancio. *M. Licinius Craſſus* being *Conſul*, perſwaded, *vt in Sodalitijs Iudices ab accuſatore ex tribubus ederentur.*

Sodalitia

Sodalitia.] In the latrer times the *Romans* in their canvaſſes would gather together a certain company of their ſide or faction to follow them, tearming them *Sodales*: and theſe *Sodales* would as it were by violence force the people to ſuffrage with them, whence the violence offered by them was tearmed *Sodalitia*, *Sig. de Iud. lib. 2 cap. 30.*

Iudices ab accuſatore ederentur ex tribubus.] We may read of three ſorts of Iudges among the *Romans*, or rather of three diuers kindes of elections of their Iudges. For either they were *Lecti ſortitione*, of which more may be ſeene in one of the lawes following; or *Editione*, by nomination or naming them, the manner thereof being thus; That either the Plaintiffe ſhould chooſe them all, and then were they called *Iudices editiij*, or the Plaintiffe ſhould chooſe one halfe, and the Defendant the other, and then were they called *Iudices alterni. Melanct hon in Cic. pro Muran.*

Cap. 20.

De pecunijs repetundis.

FIrſt touching the word *Repetunda* *Sigonius* ſaith, that ſuch mony was tearmed *Pecunia repetunda, quæ poſſent repeti*, which might by the courſe of law be recouered Namely ſuch mony as any magiſtrate, Iudge, or publike officer, did either in the Provinces, or in the Citty receaue as a bribe, from the Allies and Aſſociates, or from the *Roman* citizens for the adminiſtration of iuſtice, or the execution of any publike duety: and this knde of bribe they tearmed *Pecunias repetundas, pecuniam ablatam, captam, coactam, conciliatam, averſam* (*Cic. in Verrin.*) But as it ſeemeth very probable theſe lawes againſt bribery were firſt occaſioned, for the eaſe and reliefe of the *Roman* Provinces and Allies, called in Latine *Socij*, who were much abuſed in this kinde by the Prov. *Conſuls*, *Prators*, and *Quæſtors*, &c. Whence Tul-

ly calleth this law against bribery, *Legem Socialem*. Here also may we note, that [d] *Tully* vseth this phrase, *Pecuniam occupare*, for *Fœnerari*, to put mony to vse. *Occupare pecuniam est collocare inquit Nonius, id est, Fœnori dare. Vid. Lambin annot. in Cic. orat. pro L. Flacco.*

Cic. in orat. pro L. Flacco.

Iunia lex.

M. Iunius Pennus Trib. Pl. preferred a law that no such as were convinced of bribery, *Præter litis æstimationem exilium etiam damnato esset irrogatum.*

Litis æstimationem.] Here we will consider the difference of these three phrases, *Litis contestatio*, *Litis redemptio*, & *Litis æstimatio*. [e] The first signifieth the producing of witnesses when both sides shall openly in the court vse the forme of words, *Testes estote*: which was not done, *antequam satisdationes factæ essent*, before sureties were put in, by the one, that he should *Iudicatum soluere*, pay that which he was condemned: by the other, that he would *rem ratam habere*, that is, stand to the verdict or sentence in the Court. The second phrase signifieth a composition or an argument agreed vpon by both sides betweene themselues: [f] *Redimere lites est pactionem facere; qui enim paciscitur, facit vt lis non sit.* The third is when the party which is cast in the suit is adiudged to pay the mony, or the worth of the goods called in question, together with the cost and dammages in law vnto his adversary. [g] *Litem æstimare est pecuniam, de qua lis sunt, & propter quam condemnatus est reus, in summam redigere, quæ de bonis eius redigatur.* [h] And *Æstimare litem est, quod vulgò dicitur, Taxare litis expensas.*

e Sig. de iud. lib. 1. cap. 27.

f Fr. Sylv. in orat pro Q. Roscio.

g Fr. Sylv in. orat pro Cluentio.

h L. Tillin. in orat. pro Rabirio.

Acilia lex.

M. Acilius Glabrio made a law, that such as were accused of bribery, *Neq; ampliari, neq; comperendinari possent*, that is, they must out of hand receiue iudgement.

For the right vnderstanding of these two words [*Ampliari & Comperendinari*] we must consider the ancient customes and ceremonies vsed by the *Romanes* in handling their suits of

of law. First there was *In ius vocatio*, that is, a citation of one into the Court. Secondly, *postulatio*, that is, a requeſt put vp vnto the *Pretour*, that it might be lawfull for the Plaintiffe to enter his action againſt the Defendant; whence *Poſtulare aliquem de hoc vel illo crimine*, is to accuſe one of this or that crime. Thirdly, *Nominis delatio*, that is, the taking of the Defendants name into the court-booke: and this was tearmed, *Intendere actionem, vel Litem*; and *Diem alicui dicere*, that is to enter an action againſt one. In the ſecond of theſe Acts, namely when requeſt was made by the Plaintiffe vnto the *Pretour*, that he might enter his action againſt the Defendant; then the plaintiffe did *Vadari reum*, that is, demande ſureties or bale from the defendant, that he would appeare vpon the day appointed by the *Pretour*. And the Plaintiffe did againe, *Promittere vadimonium*, enter bond alſo for his owne appearance vpon the ſame day, which commonly was the third day following, called properly *Dies perendinus*, and ſometimes *dies tertius* ſimply, as it appeareth by thoſe capitall letters. I. D. T. S. P. vſed to bee written in their actions: which letters [i] *Probus* expoundeth thus: *In diem tertium, ſine perendinum*. So that then properly. *his vel reus dicitur comperendinari*, when the giuing of ſentence is differred till the third day. Moreouer before the *Prator* would ſuffer the action to be entred, he would ſweare the Plaintiffe, that he did not accuſe the Defendant *calumniandi cauſa*, that is, falſely or maliciouſly, and this kinde of ſwearing was tearmed *Calumniam iurare, calumniam dsiurare*, and *In litem iurare*. Now if either party were abſent from the court vpon the third day, except he were ſicke, he was caſt in his ſuit, and the *Prator* did grant an execution called *Edictum peremptorium*, whereby he gaue autority to his adverſary to ſeaze vpon his goods. Sometimes there were two or three edicts in manner of Proceſſes or writs, before the *Edictum peremptorium* could be obtained; ſometimes it was graunted at the firſt; and then was it [k] called *vnum pro omnibus*

[i] Sig. de Iud. lib. 1. cap. 17.

[k] Sig. eiuſd. l. cap. 18.

Sig eiuſd. l. cap. 21.

bus. Now if both parties came into the court and did appeare, then were they ſaid *ſeſtitiſſe*: ſo that this word *ſiſto* amongſt the lawyers did ſignifie to ſhew opes ſelſe in the court. Vpon the third day the *Prætor* alſo with the whole bench of Iudges did meete, and the *Iudex Quæſtionis* (whom *Roſinus* maketh a diſtinct officer differing from the *Prætor*) did cauſe all the *Select* Iudges to pull out certaine lots, out of an vrne or pitcher brought thither for that purpoſe, & thoſe Iudges vpon whom the lot fell were to ſit in Iudgement: This was called *Sortitio Iudicum*. Now if either the Plaintiffe or Defendant did ſuſpect any of thoſe, that they would be partiall, then might he accept againſt them, and that was called *Iudicum reiectio*: Then the *Iudex quæſtionis* would in manner aforeſaid chooſe other Iudges in their places, and that was called *ſubſortitio*. Which being ended, thoſe Iudges which were thus choſen received every one of them from the *Prætor* three tables, the one hauing this letter *A* written in it, betokening *Abſolution*: wence *Tully* calleth it *literam ſalutarem*: The other hauiug this letter C written in it, betokening *Condemnation*: the third hauing theſe two letters N.L. betokening *Non liquet*. After the receipt of the tables, then did the *Prætor mittere vel dimittere iudices in conſilium*, that is, ſent them to caſt their tables into the vrnes, there being three vrnes or little coffers purpoſely provided; the one for thoſe iudges which were choſen out of the *Senators*, the other for thoſe that were choſen out of the Gentlemen, the third for thoſe which were choſen out of the *Martiall* Treaſurers. Now if they did caſt the firſt ſort of tables into the vrnes, then the *Prætor* pronounced the defendant abſolued; if the ſecond, then he pronounced him condemned; if the third, then he pronounced *Amplius cognoſcendum*, that they muſt haue longer time to enquire: And this is properly termed *Ampliatio*, a Repriue and in ſuch manner it is ſaid, *quod lis vel reus dicitur Ampliari*. The prooſes for this manner of proceeding in law may be collected out of *Roſinus lib antiq. 9. cap.*

cap. 19. 20. *&* 24. and out of *Sigonius* according to the marginall quotations. The like cuſtome ſeemeth to haue beene receaued alſo among the Græcians, who had three letters of their alphabet, anſwerable to thoſe among the *Romans*; Θ was *damnationis ſymbolum*, which occaſioned that of *Perſius*,

Et potiùs es nigrum vitio præfigere theta.

T; a token of abſolution; A of ampliation. *Vid. Eraſm. Adag.* Θ *præfigere.* Some as it appeareth by *Eraſm.* giue a reaſon of Θ, becauſe it reſembleth the heart of man wounded in the middeſt with a dart; others becauſe it is the firſt letter of Θάνατος, ſignifying death according to that,

Infelix multis theta eſt, mihi littera felix.
Si Θάνατον ſcribit, ſcribit & illa Θεον.

Cornelius Sylla Being *Dictator* ordained a law that the chiefe Iudge called *Iudex Quæſtionis* with the whole běch of Iudges, ſhould ſit vpon life and deah on ſuch as had killed a man; on ſuch as had with an euill intent ſet any place on fire; on ſuch as ſhould walke with any weapon either to kill or robbe a man; on ſuch as had either made, bought, ſold, had, or giuen any poyſon, thereby to kill a man; on any magiſtrate, whoſoeuer ſhould cauſe any conventicle or ſecret aſſemblies, or ſhould giue their conſent to the ſuborning of any man to accuſe another falſely, that thereby he being innocent might be oppreſſed and condemned by publique iudgement. Moreouer *De eius capite quærito &c.* that is, Let them ſit vpon life and death on that man, which ſhall beare falſe witneſſe, that another might be condemned to death; on that magiſtrate or chiefe Iudge, which ſhall take a bribe to condemne another to death. Cic. pro Cluent.

Parricidium.] This word doth properly ſignifie onely a murthering of ones parents or kinſfolke, but in *Numa Pompilius* his time it ſignified as much as *homicidium*, that is any man-ſlaughter whatſoeuer.

CAP. 21.

Cap. 21.

Lex. 12. tabularum de Vindiciis.

SI qui in iure manum conſerunt, vtreiq; ſuperſtitibus præſentibus vindicias ſumunto.

Si qui in iure.] Here wee muſt note that the cuſtome among the *Romans* in old time was, that as often as any controverſie did ariſe touching the poſſeſſion of an houſe, a field, or any ſuch like thing, the *Prætor* did goe vnto the houſe, field, or the thing queſtioned, being accõpanied thither with the plaintiffe and the defendant, togither with others whom the law required to be preſent as witneſſes. This place wherſoeuer it were, though in the open field, during the time that the *Prætor* ſate there to giue iudgement, was tearmed in Latine *Ius*, in Engliſh a Court. Wherein the preſence of the *Prætor* and the witneſſe, the plaintiffe and Defendant did *manum conſerere*, that is, as [m] *Camerarius* ſuppoſeth, argue and diſpute the caſe *pro* and *con* in a ſolemne forme of words preſcribed them by the law. For this phraſe is borrowed by the Lawyers from the art military, where ſonldiers are ſaid *manum, vel manu conſerere*, when they fight hand to hand. [*Vtreiq; ſuperſtitibus præſentibus*] that is, let both parties in the preſence of witneſſes (ſo [n] *Feſtus* expoundeth *ſuperſtites*) [*Vindicias ſumunto*] that is, let them take a turffe of the ground: for ſo [o] *Sigonius* expoundeth *Vindicia*; though properly (as he obſerueth) it ſignified the poſſeſſion of a thing, rather then the thing poſſeſſed. This turffe being taken vp, was carried to the *Prætor*, and iudgement was giuen vpon that, as vpon the whole. I do preſume that in other caſes, as in taking the poſſeſſion of an houſe, &c. ſome other thing in manner of the turffe was preſented vnto the *Prætor*, vpon which as vpon the whole he gaue iudgement. In proceſſe of time, the *Prætor* by reaſon of the tumult of other imployments; not finding conuenient leaſure to review euery particular

m I. Camerar. prol. Muræn.

n Roſin. ant. lib. 8. c. 29.

o Sig. de iud. lib. 1. cap. 21. *Vindicias ferre eſt ſententiã decretoq; rem obtinere: Dicebat Vindicias iudex ferebat Vindicias qui rem obtinebat Turneb. adv. l. 13. 27.*

cular ground, or houſe called in queſtion, [p] it was ordained contrary to the twelue tables, that the plainteiffe in ſuch caſes ſhould come into the court, and challenge the defendant in this forme of words, *Ex iure manu conſertum te voco*, that is, I challenge thee to goe out of the court into the field, to vſe one towards the other that ſolemne forme of words which the law inioyneth. Then did the defendant either yeeld the poſſeſſion of the ground, or elſe did reply. *Unde tu me ex iure manu conſertum vocaſti, inde ibi ego te revoco.* Then did they both taking witneſſes with them without the company of the *Prætor* *inire viam*, that is, goe into the ground bringing back a turffe thereof, vpon the which (as in manner ſhewne) the *Prætor* gaue iudgement at their returne.

[p] A. Gell. noct. Attic. l. 20. c. 10.

For the better vnderſtanding of this that hath beene ſpoken in the explanation of this law, wee muſt note that the action tearmed *Vindicatio* was twofold: either the ſuit for the poſſeſſió of a thing, or the ſuit for the Lordſhip or right owning thereof. The poſſeſſion of any thing was recouered, either by a true and reall violence, or by a ſeeming violence. This ſeeming violence was twofold, either it was *manus conſertio*, which was ſhewne immediatly before; or *Moribus deductio*, that is, a cuſtomary leading the vnlawfull *poſſeſſor* out of the ground thereby to enter poſſeſſion. *Vis ſimulata, altera à lege, altera emanavit à moribus*; ſaith [q] *Sigon.* The firſt of theſe did ariſe from the *Roman* law, the other from a cuſtome amongſt the *Romans*: the firſt of theſe is to be ſeen in *Tully* his oration *pro Murena*, the other *pro Cæcinnâ*. To theſe *Sigonius* addeth a third kinde of ſeeming violence; which how iuſtly he hath tearmed a violence, I ſhal leaue to the iudgement of the vnpartiall reader. The right of the Lordſhip or owning any thing was ſued for in this manner: The plainteiffe did queſtion with the defendant thus; firſt *An auctor eſſet?* that is, whether he had not couertly made away the poſſeſſion of the thing, thereby to fruſtrat the action. Secondly, *An ſponderet*, that is, whether he would

[q] De iud. lib. 1 cap. 1.

put in a gage of mony into the court, which he would forfeit if he were caſt; which being done, the plaintiffe did alſo vpon the demand of the defendant put in a gage of mony to be forfeited, if he preuailed not in his ſuit. This gage of money was tearmed [r] *ſacramentum*; and in this ſenſe, *Tully pro Milone*, ſaith, *Iniuſtis vindiciis, & ſacramentis alienos fundos petunt*, that is, they ſue for other mens grounds, with vniuſt actions and gages of mony. Thirdly, *An ſatisdaret*, that is, whether he would put in ſurety, that during the triall in law, the ground or houſe called in queſtion ſhould not be impaired. The ſolemne forme of words vſed in the firſt demand, is thus to be ſeene in [s] *Tully*, *Quando in iure te conſpicio, poſtulo anne ſies auctor*? If the defendant held his peace, then was hee adiudged to pay all coſts and damages; if he profeſſed himſelfe the preſent *poſſeſſor*, then did the plaintiffe proceed in manner as he ſhould for the poſſeſſion thereof; if he denied it, then did the *Prætor* ſay vnto the plaintiffe, *Quando negat, ſacramento quarito*: Thereupon ſaith the plaintiffe to the defendant, *Quando negas, te ſacramento quinquagenario provoco: ſpondes ne te ſoluturum quinquaginta aſſes, ſi auctor ſis*? To whom the defendant replied, *ſpondeo quinquaginta aſſes ſi auctor ſim. Tu verò ſpondeſne idem, ni ſim*? The plaintiffe anſwered, *Ego quoq; ſpondeo*. Now in this kinde of ſtipulation, the plaintiffe was ſaid *ſponſione & ſacramento provocare, ſacramento rogare, quærere, & ſtipulari*, that is, to challenge one to pawne a ſumme of money for the triall of a ſuit in law. The defendant was ſaid, *contendere ex prouocatione, contendere ſacramento, & reſtipulari*, that is, to be ſued in ſuch maner. This money was tearmed *ſacramentum*, [t] becauſe when it was forfeited, it was beſtowed *in rebus ſacris & diuinis*. Touching the laſt interrogatory, I read no ſet forme of words, but by the word *ſatisdatio*, the intelligent reader may coniect, that it did ſomewhat ſymbolize with our Engliſh cuſtome of putting in bale. [u] This putting in of bale was twofold. The one was *ſatisdare iudicatum ſolui*, to bind himſelfe to

[r] Sigon de iudic. l. 1. cap. 21.

[s] Cic. orat. pro Muræna & pro Cœcinna.

[t] Sig. de iud. lib. 1. cap. 21.

[u] Sigon. de iudic. lib. 1. c. 27.

to pay what ſhould be adiudged. The ſecond, was *ſatiſdare rem ratam habere.* To become bound that he would ſtand to the verdict and iudgement of the court. The firſt of theſe bonds was required to be performed by the defendant; the ſecond by the plaintiffes Proctour or Atturny. But if the Action were an Action of debt, then the Proctours alone became bound; the Plaintiffs Proctour that he would ſtand to the indgement; the Defendants Proctour, that the debt adiudged ſhould be paid.

LIB. 4.

Rites and cuſtomes obſerued by the Romans in their warres.

De Militiâ.

TOuching the art *Military* vſed among the *Romans*, it will not be impertinent to conſider, firſt how warre was proclaimed, & peace eſtabliſhed by them: Then to march on to the deſcription of their bands, or companies, where we may firſt obſerue the office of their chiefe Captaine, and their ſubordinate leaders, together with the ſeuerall wards into which the vniuerſall army was diuided. After this we may deſcend vnto the diuerſitie of puniſhments vſed toward Captiues, & likewiſe towards refractarious and diſobedient ſouldiers: Adding as a *Corollary*, or *Period* to our whole diſcourſe the ſeuerall rewards, which the L. Generall with his ſouldiers after the performance of certaine noble atchieuements receaued.

CAP. 1.

Cap. 1.

De ritu, quem Romani obſervârunt vel fœdus ferientes, vel bellum inferentes: & de triplici ratione conſcribendi milites.

WEE may remember that it hath beene already ſhewne, that both the proclaiming of warre and peace belonged vnto a certaine order of *Roman* Prieſts called *Fœciales*, whom by reaſon of their office I engliſhed **Heralds at armes**. The rites and ceremonies, which they vſed, when they proclaimed peace were as followeth. *viz.* One of thoſe Heralds hauing his commiſſion from the State (after that both ſides had agreed vpon the truce and league now to be concluded) tooke vp a ſtone in his hand [a] vſing this ſolemne forme of words: *Si rectè & ſine dolo malo hoc fœdus atq; hoc iusiurandum facio, diy mihi cuncta felicia præſtent, ſin aliter aut ago aut cogito (cæteris omnibus ſalvis) in proprijs patrijs, in proprijs lagibus, in proprijs laribus, in proprijs templis, in proprijs ſepulchris ſolus ego peream, vt hic lapis è manibus decidet*, and therewithall he caſt the ſtone out of his hand: which manner of oath was tearmed *Iurare Iovem lapidem*, or *per Iovem lapidem*, that is, as it hath beene rendred by *Feſtus*, to ſweare by *Iupiter* holding a ſtone in ones hand. [b] Many ſay that he did caſt that ſtone at an hogge or porker brought thither purpoſely, adding theſe words to the former; *Si prior populus Romanus defexit publico conſilio, tum ille Dieſpiter, populum Rom. ſic ferito, vt ego hunc porcum hodiè feriam:* alluding to which cuſtome *Virgil* ſaith,

Et caſa iungebant fœdera porcâ.

[a] Polyb. vid. Roſin. antiq. l. 10. c. 2.

[b] Sig. de iure Ital. l. 1. c. 1.

The manner of denouncing warre hath beene alreadie ſhewne. The act of ſeruice in warre was tearmed *Mereri ſub hoc vel illo duce*, that is, to ſerue in warre vnder this or that Captaine; & whatſoeuer ſouldier was diſcharged of his ſervice

vice, as hauing ſerued out his whole time, he was called *miles emeritus*, & by [c] *Tully*, ſuch an one is ſaid *ſtipendia confeciſſe*. [d] *Servius* hath obſerued that the *Roman* ſouldiers were preſſed three manner of waies: *per Sacramentum, Coniurationem, & Evocationem*. But [e] *Lipſius* cenſureth him for the amiſſe explanation of the laſt member. Therefore the indifferent reader ſhall giue me leaue to borrow the tearmes from *Servius*; but the explanation of them partly from *Servius*, and partly from *Lipſius* in the places now quoted. Ordinarily ſouldiers at their preſſe did each ſeuerally take their oath not to forſake their Captaine or country; & this oath was called *Sacramentum militare*. The words thereof are rendred by [f] *Polybius* thus: *Obtemperaturus ſum, & facturus quicquid mandabitur ab imperatoribus, iuxta vires*; & thoſe were tearmed *Milites per ſacramentum*. [g] This ſort of ſouldiers were vpon appointed daies as it were of publique Muſter, elected and choſen by the military *Tribunes* vnder the *Conſuls*: the aſſignement of the day did chiefly belong vnto the *Conſuls*, at which time if any ſouldier withdrew himſelfe, and did not appeare, he was ſeuerely puniſhed, ſometimes by impriſonment, ſometimes by confiſcation of his goods, ſometimes by being ſold for a bondſlaue. Vpon extraordinary occaſions (as when tumults or commotions did cauſe any ſuſpition of imminent danger) the chiefe leader of the ſouldiers did goe vnto the Capitoll, & bring forth two banners or flaggs, the one red called therefore *Vexillum Roſeum*, vnto which the footmen repaired; the other sky-coloured called therefore *Caruleum*, which the horſemen followed. The reaſon why the horſemens banner was sky-coloured, is [h] rendred thus, becauſe it did moſt reſemble the colour of the ſea, which color they deemed moſt acceptable to *Neptune*, who was both the God of the ſea, and the firſt author of horſes. Now becauſe the ſuddaine danger would not yeeld ſo much time, that they might ſeuerally be ſworne, therefore did they take their oath in common altogether, onely one chiefe ſouldier throughout

[c] Orat. pro lege Manil.
[d] Serv. l. 2. & 7. Æneid.
[e] Lipſ. de milit. Rom. lib. 1. dial. 8.
[f] Vid. Lipſ. de milit. Rom. l. 1 dial. 6.
[g] Lipſ. de mil. Rom. l. 1, dial. 4
[h] Serv. Æn. l. 8

throughout a whole legion, tooke his oath at large, and in expreſſe words,[i] the reſt followed in order one by one, ſaying ὡσαύτως ὀμνύω, that is, that hee ſwore the ſame as the firſt. If the *Tribune* diſtruſted his ſouldiers fidelitie, then would he ſweare thē every one ſeuerally in tearmes at large. And thence were they called *Milites per coniurationem*; as likewiſe *Milites ſubitarij* in reſpect of their ſuddaine preſſe. The third member may alſo be admitted, if we with [*] *Lipſius* vnderſtand it in its true ſenſe, namely for thoſe ſouldiers who by the L. Generall were added vnto the body of their army; hee hauing authority to call out ſuch other ſouldiers, who for their long ſeruice were diſcharged from giuing in their names at a muſter. And theſe are generally by all authors tearmed *Milites euocati*; and *Lipſius* deemeth them all one, with thoſe whom *Seruius* calleth *Milites per euocationem*. The ſouldiers being thus preſſed, if they purpoſed to make war vpon their enimies, then did the L. Generall ſummon them to prepare themſelues by a ſound of Trumpets; & this was tearmed *Claſſicum canere, à calando*, which ſignifieth to call. Which being done, a skarlet banner was hanged out at the L. Generall his pauilion: from which ceremony I think that that commō adage did firſt ariſe, *Conferre ſigna, & Collatis ſignis pugnare*, to ioyne battle. Immediatly vpō this they did *Barritum tollere*, make a great ſhout or noiſe with their voices to the greater terror of their enimies: & that the noiſe might be the greater, they did *Arma concutere*, ruſtle together with their armour, and claſh their ſwords. Theſe foure ceremonies are to be ſeene more at large in [k] *Lipſius*. Vnto which we may adde the fift, obſerued by [l] *Fr. Sylvius*; namely that at the remouing of their camp, they did *conclamare vaſa*, giue a great ſhout or cry in token that the ſouldiers ſhould truſſe vp their bagge and baggage: & hence it is that [m] *Plautus* vſeth this phraſe, *Colligatis vaſis*, to ſignify as much as *paratè* or *expeditè*. Now that they might be the readier for battle, they did gird (as I ſuppoſe) their ſouldiers coats cloſe vnto

[i] Lipſ. de mil. lib. 1. dial. 6.

[*] Lipſ. de mil. Rom. lib. 1. dial. 8.

[k] Lib. 4. de mil. Rom. dial. 11. & 12.

[l] In ep. viror. illuſt. l. 4. ep. 1.

[m] Plaut. in Pſeudolo.

vnto them: & a ſouldier thus girt was called *Cinctutus*, that is, (ſaith [n] *Pighius*) *Cinctu tutus.* [o] *Inde Diſcinctos ignavos, & militiæ minime aptos putârunt, Præcinctos verò fortes & ſtrenuos.* Hence alſo is that proverbiall ſpeech, *In præcinctu ſtare* or *Vivere.* To be in a readineſſe continually.

Non pudet ad morem diſcincti vivere Naccæ? Perſ. Sat. 3.

[n] Pigh. in ſua præf. ad lib. 1. ſeptim.

[o] Alex. Gen. dier. l. 1. c. 20.

Cap. 2.

De Legione, Auxilijs, & legionis partibus.

THE *Roman* forces were in old time divided into two ſeverall parts; namely, *in Legiones & Auxilia*, into Legions and Auxiliary bands. The Auxiliarie bands were ſuch forces as the neighbour and confederate countries did ſend vnto the *Romans.* The Legions were taken out of the body of the *Romans.* [p] *Legio, à diligendo dicta eſt*, from the choice and ſelecting of ſouldiers. [q] *Romulus* is ſaid to haue beene the firſt author of theſe Legions, making every Legion to containe three thouſand footmen, & three hundred horſemen, [r] one thouſand footmen & one hundred horſemen being taken out of each national Tribe. Afterward it was augmented by *Romulus* himſelfe into foure thouſand footmen, [ſ] whence it was called *Quadrata legio.* And in proceſſe of time a legion increaſed vnto the number of ſix thouſand: which number it ſeldome or neuer exceeded (as it appeareth by *Sigon.* in the place now quoted.) Now [t] none could be ordinarily regiſtred for a ſouldier vntill the ſeuenteenth yeare of his age, [u] at which his firſt admiſſion he was tearmed *Tyro*, a freſh-water ſouldier: and hence figuratiuely *Tyrocinium* hath not beene tranſlated only the firſt entrance into warre, but alſo the initiation or firſt entrance into any art or ſcience whatſoeuer. After he had ſerued many yeares, then was hee tearmed *Veteranus*, an old beaten ſouldier. [x] The *Roman* legion was divided *In pedites & equites*, there being

[p] Plutarch. in Romulo.

[q] Roſin. ant. lib. 10. cap. 4.

[r] Sig. de iure Rom. l. 1. c. 15.

[ſ] Sigon. ib.

[t] Alex. Gen. dier. l. 1. c. 20.

[u] Pancirol. l. rerum deperdit. cap. de habit. & veſt. veter.

[x] Sig. de iure Rom. l. 1. c. 15.

being commonly for every thouſand footmen an hundred horſemen. [a] *Pedites diſtributi erant in Cohortes; Cohortes in Manipulos; Manipulos in Centurias: Equites diſtributi erant in Turmas, Turma in decurias.* The word *Cohors* doth ſignifie that part of ground, which is commonly encloſed before the gate of an houſe, [y] which from the ſame word wee call a **Court**: and [z] *Varro* giueth this reaſon of the *Metaphor*. As in a farme houſe (ſaith he) many out-buildings ioyned together make one encloſure: ſo *Cohors* conſiſteth of ſeuerall maniples ioined together in one body. It is manifeſt (ſaith [a] *Alexander*) that the *Romans* in ancient time did very ſeldome, yea neuer (except in great neceſſity) inroll into their vniuerſall army aboue foure legions: & in an ordinary legion, which he tearmeth *Legionem iuſtam*, ten *Cohortes*; euery *Cohors* containing 3 maniples, euery maniple two Centuries, euery Century an hundred ſouldiers: whence they from *Centum* were called *Centuriæ*, a centurie. [b] The ſe centuries were ſometimes diuided into leſſer numbers called *Contubernia*; euery *Contubernium* containing ten ſouldiers beſides their captaine, [c] which was called *Decanus*, and *Caput Contubernij*. Where we muſt obſerue, that *Contubernium* doth ſignifie as well the pauilion or lodging it ſelfe, as the ſouldiers lodging therein: and it may be ſo called *quaſi Contabernium*, from *Taberna* ſignifying any ſlight lodging made of boards. Thoſe that ruled ouer a thouſand footmen we may in Engliſh call **Seriants maior**: They called then *Tribuni militum*. Thoſe that governed over the centuries were called by them *Centuriones*, by vs in Engliſh **Centurions**: and they had their inferiour officers vnder them, which were called *Tergiductores*, or *Extremi agminis ductores*. [d] Their office was to ouerſee and looke vnto thoſe of the campe which were ſick, who commonly came behind the army, *quaſi extremum agmen, & tergum aciei*. The horſemen were diuided into ſeuerall troopes called *Turma*, every *Turma* containing thirty horſemen. Againe euery *Turma* was ſubdiuided into three leſſe companies called *Decuriæ*; every

[y] Edmunds in his obſeru. vpon Cæſars Comment. lib. 2. c. 3.

[z] Varro, lib. 3. de re ruſtica.

[a] Alex. Gendier. l. 1.

[b] Varro, vid. Roſin. ant. Rom. l. 10. c. 5.

[c] Roſin. ibid.

[d] Veget. vid. Roſin. ant. Rom. l. 10. c. 7.

Decuria containing ten horſemen: whence their captaine was called *Decurio*, and the captaines ouer the greater troopes, namely ouer the ſeuerall wings of the horſemen, were called *Equitum præfecti*. Now the chiefe gouernour ouer the vniuerſall army was called commonly *Imperator*: we in Engliſh call him a L. Generall. His Lieutenant or L. deputie was called *Legatus*, [e] who in old time was ſent *non tam ad imperandum, quam ad conſulendum imperatori*. This word *Imperator* in the *Roman* hiſtories hath a threefold acception. Firſt it is taken for him, who by commiſſion from the ſtate hath the managing of an army, being the ſame that *Prætor* was in ancient time: and in this ſence it hath affinitie with the office of our L. Generall. Secondly for ſuch a L. Generall, who by his proweſſe hauing put [f] one thouſand of his enimies to the ſword, was both by his ſouldiers ſaluted, and the *Senate* ſtyled by the name of *Imperator*. But if he had ſlaine leſſe then one thouſand, he was not thought worthy of this ſolemne ſalutation by that name. Laſtly it was taken for a ſoueraigne Prince, King, or Monarch, in which ſence it was the *Prænomen* of all the *Roman* Emperours from *Iulius Cæſar* forward. Now becauſe the ſouldiers in a legion muſt of neceſſitie differ much in eſtate, age, and experience, ſome being welthier, elder, and of more experience then others; hence was it requiſite alſo, that there ſhould be a diſtinction of places in their armies, according to the deſert and worth of each ſeuerall perſon. We are therefore likewiſe to vnderſtand, [g] that the *Conſuls* every yeare made a generall muſter: at which time the military tribunes choſe out the youngeſt and pooreſt of all the reſt, and called them by the name of *Velites*. Their place in regard of the other ſouldiers was baſe and diſhononrable, not onely becauſe they fought a farre off and were lightly armed; but alſo becauſe they were commonly expoſed to their enimies as forelorne hopes. According to [h] *Lipſius* theſe *Velites* were commonly placed either *In Fronte, Vijs*, or *Cornibus*. 1. In the front of the army. 2ly in the diſtances

[e] Lipſ. de mil. Rom. lib 2. dial. 10.

[f] Barth. Latom. in Phil. orat. 14.

[g] Lipſ. de mil. Rom. l. 1. dial. 3.

[h] Lipſ. de mil. Rom. lib. 4. dial. 3.

ſtances, or ſpaces between the ſeuerall Maniples. 3ly In *Cornibus*, that is, In the wings of the battle: Not that the wings at any time conſiſted of thoſe *Velites*, for that was the *Socy* and Auxiliary forces; but either the ſpaces in the wings were filled vp by thoſe *Velites*, or elſe they might obtaine a promiſcuous place among thoſe forrainers. Notwithſtanding they did like ſcouts run two and fro, caſting out their darts (as occaſion was offered) and ſo retire: whence when a man doth leape from one thing to another in his talke, we ſay he doth *Agere velitatim*. Hauing choſen out a competent number of theſe ſcoutes, they proceeded to the choice of them, which they called *Haſtati*, that is, Pike-men: foraſmuch as they fought with a kinde of iaueling, which the *Romans* called *Haſta*. Theſe pike-men fought in the firſt part or fore-front of the maine army. The third choiſe which they made, was of the ſtrongeſt and higheſt bodied men, who for the prime of their age were called *Principes*: and hence was the ſecond place or ward in the maine army called *Principia*, according to [i] *Thraſo* his ſpeech, *Ego ero poſt principia*, that is, I Will followe the *Principes*, thereby chooſing to himſelfe the beſt, & ſafeſt place. The laſt ſort of ſouldiers, which ſtood in the third place or rereward, were called *Triarij*. They were of all, the moſt approued, and the very laſt help and refuge; ſo that if they failed, all was loſt: and hence ariſeth that forme of ſpeech, *Ad triarios ventum eſt*, [k] whereby we ſignifie that a thing is come to the laſt puſh. As I ſuppoſe, the weapon, wherewith theſe *Triarij* fought, was a dart with yron faſtned at the end of it, called in Latine *Pilum*. The reaſons of this my coniecture are theſe: firſt becauſe the firſt century of theſe *Triarij* was called *Primum pilum*, and their centurion *Primopilus*, and *Primipilus*, and *Primus centurio*, becauſe hee was the chiefe centurion in a whole legion, as hauing the charge of the chiefe banner called the Eagle; [l] whence *Aquila* is ſometimes vſed to ſignifie *Primopilatum*, the office and place of the *Primopilus*. The ſecond Century was called *ſecundum*

[i] Terent Eun. Act. 4. Scen. 7.

[k] Alex. Gen. dier. l. 5. c. 15.

[l] Lipſ. de mil. Rom. lib. 2. dial. 8.

pilum, and their Centurion *Secundipilus*, &c. Secondly, they called the *Principes*, which marched in the battle immediatly before theſe *Triarij*, *Antepilanos*: which argueth that thoſe ſouldiers which followed next ſhould be the *Milites Pilani*; and by conſequence their weapon ſhould be that kinde of dart which they called *pilum*. Their manner of embattleing was divers. Sometimes they would make a winged army, ſo that the maine body thereof ſhould be in the middle, and on each ſide a leſſer company: The maine body wee in Engliſh call the Vauntgard, and the two leſſer companies wee call Wings; as likewiſe in *Latine* they called them *Alas aciei*, and *dextrum vel ſiniſtrum cornu*. [m] *Pancirollus* calleth them *Vexillationes*, becauſe there fought no more in either wing, then belonged to one banner called in Latin *Vexillum*. The gouernours of theſe wings he calleth *Alarum Præfectos*. Sometimes they embatled ſo, that the forefront of the Army being ſmall, it was enlarged bigger and bigger backward in manner of a triangle: By [n] *Lipſius* it is demonſtrated vnto vs vnder the forme of the greeke letter Δ. He in the ſame place calleth it *Caput porcinum, quia velut fodit & ruit in vadendo.* Commonly it is called *Cuneus militum*, the *metaphore* being borrowed not only frō the reſemblance it had with a wedg, but alſo from the vſe of a wedge: for they neuer embatled in that forme, vnleſſe it was to breake through their enimies, the piercing angle being thicke compacted with targets. Sometimes they did in a quite contrary manner enlarge their army in the fore front, making it to end in an angle; and [o] this they called *Forfex* and *Forceps militum*. Sometimes their forme of embattling was circular, and then was it called *Orbis vel globus militum*. The banner or flagge was properly called *Vexillum*, being a deminutiue of *Velum*. It was alſo called [p] *Bandum*: whence we doe at this day call ſo many ſouldiers, as doe fight *ſub eodem bando*, a band of ſouldiers: as *Romulus* called thoſe that fought *ſub eodē manipulo fœni*, an handfull of hay being vſed at that time inſteed of a flagge) *Manipulum militum. Ouid.* Pertica.

m Pancir. in notit. orient. & occident. imper. c. 32.

n Lipſ. milit. Rom. lib. 4. dial. 7.

o Lipſ. milit. Rom. l. b. 4. dial. 7.

p Feſtus, vid. Panc. in not. orient. & occidēt. imp. cap. 32.

Pertica ſuſpenſos portabat longa maniplos,
Vnde maniplaris nomina miles habet.

*Suidas is plaine, Βάνδον καλεῖν ἐσήμαινε τὸ σημεῖον τὸ ἐν πολέμῳ that is, The *Romans* called their military enſigne a **Band**: hence others haue vſed Βανδοφόρος to ſignifie as much as *Signifer*, an **Auncient-barer**.

* Suid in voce Βάνδον.

CAP. 3.

De oppugnatione vrbis, & iis quæ ad oppugnationem requiruntur.

IF the ſiege of a towne ſeemed difficult and hard to compaſſe, then did the *Romans* vſe certaine meanes of policie for the better effecting thereof. They inuironed the towne with a broad & deepe ditch, adding thereunto a rampier, fortified with many caſtles and fortreſſes; whereby they both kept the towne from any forraigne ſuccour, and withall ſecured themſelues from ſallies and other ſtratagems. This rampier did extend itſelfe toward the walles of the city, ſo that by making (as it were) a great hill, they might ouertop the citty, and fight with the greater aduantage. Now that this great heape of earth might become firme and well able to ſupport the buildings to be erected vpon it, they did caſt in ſuch timber and ſtones among the earth; and this heape of earth, ſtones, and timber when it was reared, was properly called *Agger*; whence commeth both the Latine verbe *Exaggerare*, and the Engliſh to **Exaggerate**, that is, to amplifie or encreaſe a matter. The ſtakes, poſts, and trees, which were rammed in about this bulwarke or rampire to vphold the earth, were ſometimes called ᵠ *Cerui*, becauſe of their forked and ſharpe tops, but more properly ʳ *Valli*, and *Vallæ*. The diſtance or ſpace betweene each ſtake was called *Intervallum*; though now *Intervallum* doth ſignifie not onely ſuch a diſtance, but any diſtance either of ſpace or time, as it appeareth.

ᵠ Lipſ. poliorc. lib. 2. dial. 2.
ʳ Serv. Æneid. lib. 10.
ſ Cic. ep. fam. lib. 1. ep. 7.

reth by that of [s] *Tully*: *Intervallo locorum; & temporum diſiunctis.* Sometimes *Vallus* doth ſignifie a pole or ſtake, whereunto vines are tyed; according to that receiued adage, which we vſe when a ſpeciall friend forſaketh one, *Vallus vitem decepit.* From the firſt ſignification it is, that *Vallum* doth often ſignifie the incloſure, or hedging in of trees & ſtakes, where-with the bulwarke is vpheld: Alluding whereunto [t] *A. Gellius* tranſlateth, Ἔρυμα ὁ λόφος, *Vallum dentium.* The meanes of their defenſe, whiles they were making this their rampire, was a certaine engine or ordinance of warre [u] made of plankes and hurdles running vpon wheeles, vnder which they might reſt ſecure from all ſtones and darts caſt from the wals of the city: It was called *Vinea.* A ſecond engine was *Muſculus:* The matter whereof it was made I haue not read: but the vſe of it was, that vnder it the ſouldiers might approch vnto the wals of the citty, and vndermine them. Thus much [x] *Lipſius* ſeemeth to inferre, when he rendreth the reaſon of the name: *Muſculus id ò dictus, quia inſtar eius animalculi foderent ſub eo terram.* A third meanes of their defence was *Militaris teſtudo.* This word *Teſtudo* in the art Military had a double acception, both being borrowed from ther eſemblance of the *Tortoiſe* ſhell, which is the true and genuine ſignification of this word. In the firſt acception *Teſtudo*, [y] doth ſignifie a warlike engine or fenſe made with boards couered ouer with raw hides, which ſerued againſt fire and ſtones caſt at the ſouldiers, vnder this they might ſafely aſſaile the wals. [z] In the ſecond acception it ſignified a target-fenſe, which was a cloſe holding togither of targets ouer head like a vault or roofe, wherewith the footmen did defend themſelues from the thicke ſhot of arrowes or flinging of ſtones. Their rampier or countermure being finiſhed, they vſed certaine great timber towers made vpon wheeles to run too and fro, which they called *Turres ambulatoriæ*, moueable turrets. Theſe towers had many ſtories one ouer the other, [a] wherein they carrying ladders and caſting bridges thereby to ſcale the wals

[s] Cic. ep. fam. lib. 1. ep. 7.

[t] A. Gel. Noc. Attic. l. 1. c. 15.

[u] Roſin. ant. Rom. lib. 10. c 26.

[x] Lipſ. polior. lib. 1. dia. 9.

[y] Roſin. ant. R. l. 10. c. 16.

[z] Stad in Flor. l. 4. c. 10.

Roſin. ant. Rom. lib. 10. cap. 16.

wals. The engines hithervnto haue beene defenſiue, ſuch wherewith the *Romans* defended themſelues in their ſieges: others there were offenſiue, wherewith they did aſſaile the city; and of thoſe the chiefe were *Baliſta ſiue Catapulta*, *Scorpius ſive Onager*, *Aries*, & *Malleoli*. The firſt of theſe engines, as it was called *Baliſta ἀπὸ τοῦ βάλλειν*, from darting or caſting forth any thing, [b] ſo was it in old time called *Catapulta ἀπὸ τῆς πάλης*, which ſignifieth a ſhaft or dart; Though it cannot be denyed, but that *Pelta* doth alſo ſignifie a kind of ſhield made in the forme of an halfe moone, according to that of *Virgil. Æneid lib. 1.*

[b] Lipſ. poſior. lib. 2. dial. 3.

Ducit Amazonidum lunatis agmina peltis,
Pentheſilea furens.----

The forme thereof followeth, tranſlated word for word out of [c] *Marcellinus*. [Between two plankes there is ſet in frame, and faſt ioyned a ſtrong and bigge yron, reaching out in length after the manner of a good great rule; out of the round body whereof, which is artificially wrought, there lyeth forth farther out a fowre ſquare beame, made hollow with a direct paſſage in manner of a narrow trough, tyed faſt with many cords of ſinewes twiſted one within another, and therevnto are ioyned two woodden skrewes; neere vnto one of which ſtandeth the cunning Baliſtier, and ſubtilly putteth into the hollow paſſage of the beame a wooden ſhaft with a bigge head glewed faſt to it. This done on both ſides, two luſtie young men doe bend the engine by turning about certaine wheeles. When the top of the head is drawne to the vttermoſt end of the cords, the ſhaft being carried forth of the Baliſta, by the inward force thereof, it flyeth out of ſight.] That the reader may receaue the more light in the vnderſtanding of this obſcure deſcriptiõ, I haue added the very words of *Marcellinus*. [*Ferrum inter axiculos duos firmum compaginatur & vaſtum, in modum regulæ maioris extenſum: cuius ex volumine teretis, quod in medio ari polita componit, quadratus eminet ſtylus extenſius tecto canalis anguſti meatu cavatus, &*

[c] Amm. Marc. lib. 23. cap. 3.

hac.

hac multiplici chordâ nervorum tortilium illigatus: eiq́, cochleæ duo lignea coninuguntur aptissimè, quarum propè vnam adsistit artifex contemplabilis, & subtiliter adponit in temonis cavamine sagittam ligneam spiculo maiore conglutinatam: hocq́, facto hinc inde validi iuvenes versant agiliter rotabilem flexum. Quum ad extremitatem nervorum acumen venerit summum, percita interna pulsu à balista ex oculis evolat. In respect of its vse we may english it a Crosse-bowe: but it was much bigger, and of a different forme. The Scorpion, which now they call *Onager*, is described by *Marcellinus* in the same place thus. [Two oaken or elme beames were hewn out, and somewhat bended, so that they seeme to bunch out in backes; and these in manner of a* saw engine are tied fast together, being bored through with wide holes, through which (by the meanes of those holes) strong cords are tied, keeping in the whole frame that it start not asunder: * From betweene those bunches, another wooden beame reaching forth ouerthwart, & in manner of a waine-beame erected vp, is tied with such devises vnto certaine ropes, that it may be pulled vp higher, or let down lower at ones pleasure; and at the top thereof certaine yron hookes are fastned, from which hooks there hanged downe a certaine sling either of yron or tow: Vnder which erected beame there lyeth a great peece of haire-cloath full of small chaffe tied fast with cords, & placed vpon a banck of turfes, or a heape of brickes: When therefore it cometh to the point of skirmish, a roũd stone being put into the sling, foure young men on one side loosing the beames, into which the ropes are incorporated, doe drawe backe the erected beame vnto the hook. Thus at length the master of the engine standing in some high place, giuing a mighty stroke with a hammer (and as I suppose vpon the cord, whereunto the erected beame was fastned, with his hooke) setteth open the railes, that containe the whole worke, insomuch that this erected beame being now at liberty with that quicke stroke, & hitting against the soft haire-cloath, it hurleth out the stone, that

* *Machinæ Serratoriæ*

* Ab. hac medietate testium] *Here we must note that this significatiõ of testes is borrowed from the* Anatomists, *which doe call certaine eminẽt parts behind.* ψαλλιδοειδὲς Testes. Vid. Fuchs. instit. med. l. 1. Sec. 5.

that will batter whatſoeuer is in the way. And it is called *Tormentum, quod ex eo omnis explicatio torquebatur.* It is alſo called *Scorpio*, becauſe when the long beame or tillar is erected, it hath a ſharp top in manner of a ſting. The moderne time hath impoſed vnto it the name of *Onager*, that is a wild Aſſe, becauſe that wild Aſſes, when they are courſed by hunters, fling back ſtones with their heeles a farre off, ſo that oftentimes they peirce the breaſts of them that follow them. The Latine word is made from the Greeke Ὀναγρος, that is, *Aſinus & Agreſtis, rus velager.* Now if any aske mee, why that ſackcloath of aſhes was interpoſed, the reaſon is rendred by *Marcellinus* in two lines, which I purpoſely did not tranſlate in their place, becauſe I would continue the ſenſe, without ſuch a long *parentheſis*. The reaſon is there deliuered thus; becauſe the violence and force of the erected beame recoiling, after it had beene by the ſtroke diſcharged, was ſuch that it would ſhake in peeces the ſtrongeſt wals, except there were ſome ſoft thing interpoſed, whereby the forcible ſtrength of the recoile might be by degrees ſlacked. The *Aries* or Ramme is deſcribed alſo by *Marcellinus* in the ſame place. [The Ram was a great tree, or beame *like vnto a maſt of a ſhip*, hauing a peece of iron in manner of a Rams head, faſtned at the end thereof, wherewith they did demoliſh and batter downe the wals of a Citty. It was hung vnto a beam. which lay a croſſe ouer a couple of pillars, and hanged thus equally ballanced, it was by force of men pulled backward, and then recoiled vpon the wals.] The Rammes which *Titus* vſed at the ſiege of *Hieruſalem*, ranne moſt on wheeles: which kinde of Rammes are deſcribed by *Ioſephus*. There be, ſaith he, other manner of engines, as an iron Ram vpon 4 wheeles, bound with yron, and faſtned with yron nayles, to this they make foure feet anſwerable to the bigneſſe of the beame, & every foot hath his ſeuerall wheele, & when they will batter the wall, certaine men firſt pulling it backe, they recoile it by the helpe of foure wooden leuers put in the hin-

der part thereof for that purpoſe. The head of this Ramme hath no hornes, but is blunt, made of the ſtrongeſt kinde of yron, with a wonderfull thick neck. They haue alſo of both ſides of the Ram a pentiſe of wood for the ſafegard of thoſe that recoile it. *Ioſephus Ben Gorion de bello Iudaico.* In lieu of theſe Rammes another engine was found out, called *Helepolis, ab inuſitato* Ελω, that is, *capio*, and πολις, that is, *ciuitas*. The forme of it is to be ſeen alſo in *Marcell. ibid.* [There was (ſaith he) a *Teſtudo*, or vaulted frame made, ſtrongthned with very long peeces of timber: it was couered ouer with Oxe hides, and greene wicker hurdles: the vpper part or conuexe ſur-face thereof was ouerlaid with mudde, to the end that it might keep off the fall of fire and caſting of weapons. Now there were faſtned in the front of it certain *Cuſpides triſulcæ*, that is, iron pikes with three edges very maſſie, in manner of the thunderbolts, which Painters and Poets exhibit vnto vs. This great engine the ſouldiers ruling within with diuerſe wheeles & ropes, with maine force they thruſt it againſt the wals.] [*Malleoli* (ſaith the ſame *Marcellinus*) were certaine darts faſhioned on this manner; there was an arrow made of a cane, betwixt the head and the nocke whereof was faſtned an iron full of clefts; which arrow like vnto a womans diſtaffe, on which linnen is ſpinned, was finely made hollowe within the belly, yet open in many places: In the belly it receaued fire with fuell to feed vpon. And thus being gently diſcharged out of a weake bow (for with an ouer ſtrong ſhooting the fire was extinguiſhed) if it tooke faſt hold on any place, it burned the ſame, and water being caſt thereon, the fire increaſed: neither was their any meanes to quench it, but by caſting duſt on it.] Now if they could not prevaile by theſe engines called *Machinæ*, then did they make certaine paſſages vnder ground, which they called *Cuniculi* from *Cuniculus* ſignifying a cony-berry: inſomuch that theſe two phraſes are oppoſite, *Machinis*, and *Cuniculis oppugnare*, as it appeareth by that of [d] *Plutarch*, *Cæſar non iam cuniculis, ſed*

[d] Plutarch. in vit. C. Cæſ.

ſed machinis tollit rempublicam, that is, He doth not now couertly, but with open violence aſſault the common weale.

Cap. 4.

De pœnis in hoſtes deuictos.

Albeit after the victory the *Romans* inflicted diuerſe degrees of puniſhment, according to the malice found in an enimie; yet were they alwaies compaſſionate, & (as hiſtories teſtifie) more exorable then any other nation. The puniſhments which we finde them to haue vſed towards a conquered nation are theſe. Either they puniſhed them by death; or ſold them *ſub corona*; or diſmiſſed them *ſub iugum*; or merced them in taking away their territories; or made them tributary ſtates. [c] An enimie was ſaid to bee ſold *ſub corona*, when he being placed in the market place, a crowne was put vpon his head in token of ſuch a ſale: or therefore certaine captiues were ſaid to be ſold *ſub corona*, becauſe at ſuch times they were enuironed about with ſouldiers to keepe them together, and this circle of ſouldiers, as likewiſe of all other companies, is called *Corona*. When they diſmiſſed any *ſub iugum*, [f] they erected two ſpeares with a third lying a croſſe in manner of a gallowes: then they cauſed them being diſarmed, and their belt taken away to paſſe vnder in token of bondage. When their territories were taken from them, they were commonly conferred vpon old beaten ſouldiers, in way of remuneration for their faithfull ſeruice. This tranſplantation was tearmed *Coloniæ deductio*; and the place ever after *Romana Colonia*, that is, a Roman Colonie. At which times they choſe out every tenth mã, *viz.* ſuch as were able and of beſt ſufficiencie to make and eſtabliſh a publike councell, [g] whom they named *Decurionnes*. Whence we may obſerue, that *Decurio* is not alwaies taken for a Captaine ouer ten horſemen, but ſometimes it is vſed to

[c] A. Gell. 7. c. 4

[f] Stad. in Flor lib. 1. c. 12.

[g] Sig. de iure Ital. l. 2. c. 4.

signifie an **Alderman**, or chiefe Burgesse in a *Roman* Colony. These Colonies were of two sorts, some called *Colonia Latina*: others *Italica*. The Latin Colonies had *Ius ciuitatis, suffragij & Magistratus capiendi, si in sua Colonia magistratum gessissent: Italicis autem, Ius ciuitatis & suffragij nullum erat, immunes tamen erant, nec tributum aut stipendium pendebant, vt provinciæ solebant. Turneb. aduers. l. 1. c. 11.* Diuers times the *Romans* would be content after the conquest to grant to their enimies a peaceable inioying of their lands & possessions, conditionally, that they would yeeld all faithfull allegiance vnto the L. Deputy, whomsoeuer the *Senate* of *Rome* should place ouer them. The L. Deputy was either stiled by the name of a *Proprator*, a *Proconsul*, or a *Prafectus*. Those places where the two first sorts of gouernours did rule, were tearmed *Provincia*; the other from the gouernour was tearmed *Prafectura*. Where we must obserue that this word *Provincia* hath a threefold acception. First it is taken for a country, which by the force & power of armes is subdued to the *Roman* Empire, and gouerned by some *Roman* Deputy sent from the *Senate*: & this is the proper & primitiue signification thereof, it being so called, [b] *Quod populus Rom: eam provicit, id est, ante vicit.* Secondly, it is taken for any region or country, where the L. Generall or chiefe Captaine ouer a *Roman* army doth mannage warre against any nation by commission from the *Senate*. Lastly, it signifieth any publike function, or administratiõ of office, yea any priuate duty, charge or taske either vndertaken, or imposed; according to that of [i] *Terence, Prouinciam cepisti duram*, that is, thou hast vndertaken an hard taske. Now the tribute to be paid was either certaine, or vncertaine. The certaine was properly called *Tributum vel Stipendium*; & those who paid it were tearmed *Tributarij sive Stipendiarij*: and this Tribute was of two sorts, either ordinary, such as was required from everyhouse yearely, euen in the time of peace; or extraordinary, such as was leuied by a law or decree of the *Senate* towards vnexpected

[b] Pigh. lib. Tyrannif.

[i] Terent. in Phor.

pected charges. The vncertaine tribute [k] properly called *Vectigal*, was [l] either impoſt-mony, ſuch as was collected in haven townes for the tranſportation of marchants wares, and that was called from *Portus Portorium*, or frō *Porta Portarium*, and the receauers thereof *Portitores*. The wares after the impoſt mony had beene paid were ſealed by the *Publicanes* with a certaine kinde of tempered chaulke: and this is that which *Cicero* vnderſtandeth by *Aſiatica creta, orat. pro Flacco*. Or Tithe corne, namely the tenth part of their graine and that was called from *Decem Decuma*, and the receauers thereof *Decumani*, though *Decumanus* when it is an adiectiue ſignifieth as much as *Maximus*, according to that of *Ovid. lib. 1. de Triſt.*

Qui venit hic fluctus fluctus ſupereminet omnes;
Poſterior nono eſt, vndecimoq; prior.

The reaſon of this ſignification is [m] ſuppoſed to be, becauſe in *Arithmeticke* amongſt ſimple numbers the tenth is the greateſt: or laſtly that mony, which was paid by certaine heards-men for paſturing their cattle in the *Roman* fields & forreſts. This kinde of tribute was called *Scriptura*, and the paſtures *Agri Scripturarij*; becauſe (as [n] *Feſtus* ſaith) the bayliffe or receauer of this mony, called *Pecuarius*, did *Scribendo conficere rationes*, that is, keep his account by writing. Where we muſt note, firſt that all theſe kindes of Tributes were not only required in Provinces or Countries ſubdued, but throughout *Italy*, euē in *Rome* it ſelfe. Secondly though each collectour of theſe Tributes was diſtinguiſhed by a peculiar name, yet by a generall name they were all called [o] *Publicani*, in as much as they did take to rent theſe publike tributes. The chiefe of them, which entred into bond, as the principall takers or farmers of theſe tributes *Tully* calleth *Mancipes*. The others which were entred into the ſame bond as ſureties, were tearmed *Prædes*. Many times the *Romans* did beſtow the freedome of their citie vpon forraign countries; and the degrees of freedome was proportioned accordingly

[k] Sig. de iure Rom. l. 1. c. 16.
[l] Stadius in Flor. l. 3. c. 13.
[m] Fr. Syl. in viror. illuſt. ep. a. lib. 1.
[n] Sig. de iure Rom. l. 2. c. 4.
[o] Cic. de Aruſp. reſponſ. & alias ſæpe.

as the countries were. Some they honoured with the name of *Roman* citizens, but excluded them frō the right of ſuffraging, leauing them alſo to be gouerned by their own lawes and magiſtrates. This ſtate they called a *Municipal* ſtate, in Latine *Municipium*, becauſe they were *Muneris huius honorarij participes.* [p] By *Munus honorarium* in this place is vnderſtood nothing but the bare title of a *Roman* citizen, whereby they were priuiledged to fight in a legion as free Deniſons; not in an auxiliary band, as the aſſociats. Now the firſt that ever obtained this Municipal ſtate, were the *Cerites* who for preſeruing the holy things of *Rome* in the time of the warre againſt the *Gaules*, were rewarded with the freedome of the citie, but without power of ſuffraging; [s] From whence it is, that thoſe tables, wherein the *Cenſors* inrolled ſuch as were by them depriued of their voices, were called *Cerites tabulæ*; *Horace* calleth ſuch a table *Ceritem ceram*, for the reaſon ſhewne before. But we muſt withall obſerue, that ſome Municipall townes haue either by deſert or inſtant ſuit obtained the liberty of ſuffraging alſo, which occaſioneth that receaued diſtinction, that there was *Municipium ſine ſuffragio*, & *Municipium cum ſuffragio*. Other countries which could not be admitted into the freedome of the cittie, haue obtained, and that not without ſpeciall & deſerued reſpects to be aſſociats and confederats vnto the ſtate of *Rome*. The inhabitants of ſuch countries were ſometimes called *Socij*, ſometimes *Amici*, ſometimes *Latini nominis ſocij*, &c. The King or Prince of ſuch a country did ſtile himſelfe *Amicus & Socius Senat. & Pop. Rom.* Here we muſt obſerue a difference betweene *Pactio* and *Fœdus*, both ſignifying a kind of league. That truce which in time of warre is concluded vpon and accepted of both ſides for a certaine [q] limited ſpace of time, is properly called *Pactio*; we commonly call it *Inducię*; and it differed from *Fœdus*: [r] firſt, becauſe that *Fœdus* is a perpetuall truce or league; ſecondly becauſe it was neceſſary, that one of thoſe Heralds at armes called *Fœciales*, ſhould by

[p] A. Gel. noct. Attic. lib. 16. cap. 13.

[s] A. Gel. ibid.

[q] Sig. de iure Ital. Li. cap. 1.

[r] Sigon. ib.

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a ſolemne proclamation confirme this league called *Fœdus*; neither of which conditions was abſolutely requiſite in their truce tearmed *Pactio*.

CAP. 5.

Mulcta militares, quibus milites Romani ob delicta afficiebantur.

TOuching the puniſhments that the *Roman* L.General vſed towards his own ſouldiers, when they were faulty, they were commonly proportioned vnto the fault committed. Sometimes they were eaſie, of which ſort were alſo thoſe puniſhments which did only brand the ſouldiers with diſgrace; other times they were heauier, ſuch as did hurt & afflict the body. To the firſt ſort belonged theſe; Firſt *Ignominioſa dimiſſio*, that is, a ſhamefull diſcharging of a ſouldier, whē he is with diſgrace remoued from the army. Secondly, *Fraudatio ſtipendij*, that is, a ſtopping of their pay: & ſuch ſouldiers which ſuffered this kind of mulct, were ſaid to be *ære diruti*,[1] becauſe *Æs illud diruebatur in fiſcum, nō in militis ſaeculum*. Thirdly, *Cenſio haſtaria*, whereby the ſouldier was inioined to reſigne and giue vp his ſpeare: for as thoſe which had atchieued any noble act, were for their greater honour *Haſta pura donati*: ſo others for their greater diſgrace were inforced to reſigne vp their ſpeare. Fourthly, the whol *Cohors*, which had loſt their banners, were compelled to eat nōthing but barly bread, being depriued of their allowance in wheat; and every Centurion in that *Cohors* had his ſouldiers belt or girdle takē from him, which was no leſſe diſgrace amongſt them, then it is now amongſt vs, that a knight of our order of the Garter, ſhould be depriued of his Garter. 5ly, for petty faults they made them to ſtand barefooted before the L.General his pauilion, with long poles of ten foot length in their hands: & ſometimes in the ſight of the other

[1] Roſin. ant. l.10.c.25.

ſouldiers

ſouldiers to walke vp and downe with turfes on their necks. In the laſt of theſe they ſeemed to imitate their city diſciplin, whereby malefactors were inioyned to take a certaine beam reſembling a forke vpon their ſhoulders, and ſo to carry it round about the towne; It hath ſome affinitie with our carting of queanes here in England. In the firſt we haue no cuſtome, that doth more ſymbolize, then the ſtanding in a white ſheet in the open view of a congregation. The laſt of their leſſer puniſhments, was the opening of a vaine, or letting them bloud in one of their armes: [t] which kind of puniſhment was vſed towards thoſe alone, which (as they cõceited through the abundance of their hot bloud) were too adventurous & bold. The heavier kinds of puniſhment were theſe: firſt *Virgis; vel Fuſte cadi*, to be beaten with rods; or with ſtaues & cudgels. None were ordinarily beatẽ with cudgels, but thoſe who had not diſcharged their office, in the ſending about that tablet called *Teſſera*, wherin the watchword was written; or that had forſaken their place, where they were appointed to keepe watch; or thoſe who had ſtollen any thing from out the campe; or borne falſe witneſſe againſt their fellowes, or abuſed their bodies by women; or laſtly, that had beene puniſhed thriſe for the ſame fault: thoſe which were in this maner cudgelled, were often killed in the place; but if they eſcaped aliue, they were to liue in perpetual exilemẽt. The ceremony vſed in this kind of cudgelling was, that the [u] knight Martiall ſhould lightly touch the party to be puniſhed with a club, which being done, all the ſouldiers did beat him with ſtaues and cudgels; whence wee may ſay of one that deſerueth a good cudgelling in [x] *Tully* his phraſe *Fuſtuarium meretur. Polybius* calleth it ξυλοκοπίαν. *Vid. Lipſ. de milit. Rom. lib. 5 dial. 18.* If a *Roman* ſouldier had broken his ranke by going out of order, then *Virgis cadebatur*, that is, he was ſcourged with rods. Sometimes the knight Martial vpon iuſt occaſion would cauſe them to be ſold for bond ſlaues, to be beheaded, to be hanged. All theſe puniſhments were

[t] Alex. Gen. dier. l. 2. c. 13.

[u] Trib. milit.

[x] Cic. orat. Phil. 3.

were perſonall or particular; there remaineth one which was generall, namely when the fault was generall, as in their vproares, conſpiracies, &c. Vpon ſuch occaſions the ſouldiers were called togither, and every tenth man vpon whom the lot fell was puniſhed with that kind of cudgeling aboue ſpoken of; all the others eſcaped either without puniſhment or with very litle. The puniſhment itſelfe was tearmed *Decimatio legionis*, and the reaſon of this kinde of puniſhment, is rendred by *Tully*: *vt metus viz. ad omnes, pœna ad paucos perueniret*. Sometimes ſuch was the clemencie of the L. Generall, that he would puniſh only the twentieth, nay the hundreth man, & then was it called *vicefimatio, centeſimatio legionis*. y Cic. pro Cluent.

Cap. 6.

De donis militaribus ob rem fortiter geſtam.

COnceming the rewards which were beſtowed in war, ſome were by the *Senate* conferred vpon the L. Generall: others were by the L. Generall conferred vpon his ſouldiers. Thoſe honours which the L. Generall receiued were three, Firſt *Nomen imperatoris*, of which before. Secondly *ſupplicatio*, that is, a ſolemne proceſſion continued for many daies togither, ſometimes more, ſometimes fewer: all which daies the *Roman* people did obſerue as holy daies, offring vp daily prayers and ſacrifices to the Gods in the behalfe of their L. Generall: The cuſtome being that after ſome notable victory, the ſouldiers hauing ſaluted their cheife captaine (whom I call their L. Generall) by the name of *Imperator*, then would he ſend letters vnto the *Senate* dight with lawrell, wherein he required both that name to be confirmed & approued by them, as likewiſe that they would *Decernere ſupplicationes*, that is, appoint ſuch ſolemne ſupplications. Thirdly, they honoured him at his comming home alſo with a triumph. *Triumphus vel maior, vel minor erat*, ſaith

Alexander. The leſſer kind of triumph was properly called *Ovatio* [z] *ab ove*, from a ſheepe, which in this time of his triumph was led before him, and afterward ſacrificed by him: As alſo in the greater triumph (called properly *Triumphus*) the L. Generall ſacrificed a bull. It differeth from the greater triumph firſt in the acclamation; for in the leſſer triumph the ſouldiers following did as it were redouble this letter O, & ſome are of opinion that it was therefore called *Ovatio.* In the greater triumph the ſouldiers followed crying *Io triumphe, Io triumphe*: an example whereof may be ſeene in [a] *Horace*, where he deſcribeth the triumph of *Bacchus*, the firſt autor of this greater triumph; from whoſe [b] name alſo divers autors doe deriue this word *Triumphus*, he being in greeke called Θριαμβος which by a little change is made *Triumphus.* Secondly they differed, becauſe in the greater triumph, the L. Generall did weare a garment of ſtate, called by ſome *Trabea*, [c] by others *Triumphalis*, *Picta vel Aurata veſtis*; likewiſe a garland of lawrell, riding in a chariot, the *Senators* themſelues with the beſt of the *Romans* meeting him, his ſouldiers with their coronets, their chaines, and other rewards following after: But in the leſſer triumph the L. Generall did weare a plaine purple gowne without any gold imbrodering, and a garland of myrtle tree [d] commonly going on foote, ſometimes permitted to ride on a horſe; the gentlemen and commonaltie of *Rome* alone without the *Senators* did meete him. Moreover for a perpetuall memory of this their triumph in ſome publike place certaine trophies were erected. [e] *Trophæum monumentum dixere nunc marmoreum, modò æneum, cum inſcriptione & titulis ævo perpetuo duraturis.* [f] *Dictum eſt ἀπὸ τῦ τρέπεσθαι, id eſt, à conuerſione*, frõ making the enimies to retire and turne backe. Sometimes there were ſtatues, columnes, and arches built in token of triumph. Theſe arches though commonly they were known by the name of *Arcus triumphales*, yet ſometimes they are called *Fornices*, [g] whence it is that *Tully* calleth *Fabianes* triumphall arch

[z] Salmuth. in Pancir. l. rerũ deperd. cap. de triumph.

[a] Ode. 2. lib. 4.

[b] Salmuth. in Pnacir. l. rerũ deperd. ca. de triumph.

[c] Alex. Gen. dier. l. 6. c. 17.

[d] Dion. Halicar. lib. 5.

[e] Alex. Gen. dier. l. 1. c. 22.

[f] Serv. Æneï. lib. 10.

[g] Fr. Sylv. in orat. Cic. pro Cn. Plancio.

arch *Fabianum fornicem.* If it ſo hapned that the *Roman* Generall himſelfe perſonally, did take away any ſpoiles from the chiefe captaine of the enemies, then did hee hang them vp in a temple conſecrated to *Iupiter Feretrius*; who was ſo called,[h] becauſe as the *Romans* conceited without the ſpeciall aſſiſtance of *Iupiter*, *Dux ducem ferire non poterat*: theſe ſpoiles had the name of *Opima ſpolia*, that is, Royall ſpoiles. The rewards beſtowed vpon the ſouldiers were diuers: either places of office, as the place of a Centurion, of a *Prafectus*, a *Decurio &c.* or their pay was increaſed, the ſpoiles diſtributed amongſt them, or laſtly they receiued certaine gifts tearmed *Dona militaria.* In ancient times thoſe ſouldiers which had beſt deſerued, receiued a certaine meaſure of corne called by them *Adorea*;[i] and hence it is, that *Adorea* is now vſed to ſignify ſuch laude and praiſe, as is due vnto a ſouldier. But after ages for the better encouraging of the ſouldiers, haue found out more honourable rewards, of which[k] theſe were the chiefeſt; *Armilla*, that is, a brace-let for the hand-wreſt; *Torquis*, a chaine to weare about their necke; *Phalera*, horſe-trappings; *Haſta pura*, that is, a ſpeare hauing no yron at the end of it; (it is ſometimes called *Haſta donatica*, and *Haſta graminea*;) Laſtly *Corona*, crownes, of which *A. Gell. lib. 5. cap 6.* obſerueth theſe to haue beene the chiefe: 1. *Corona triumphalis*, which in old time was made of Lawrell, but afterward of gold, and thence was it called *Corona aurea*: it was ſent by the *Senate* vnto the L. Generall in honour of his triumph; Secondly *Corona obſidionalis*, which was giuen by the ſouldiers vnto the Generall, when they were freed from a ſiege: it was made of graſſe growing in that place, where they were beſieged, whence it had the name alſo of *Corona graminea.* Now the reaſon why they made this crowne of graſſe growing in the place where they were beſieged, was thereby to yeeld vp their right in that place vnto their captaine: for by that ceremony, as[m] *Pliny* obſerueth, they did *Terrâ & ipſa altrice humo & humatione e-*

[h] Alex. Gen. dier. l. 1. c. 14.

[i] Alex. Gen. dier. l. 4. c. 18.

[k] Sig. de iure Rom. l. c. 15.

[l] Roſin. ant. lib. 10. c. 27.

[m] Plin. lib. 22. cap 4.

tiam cedere. And hence it is, that in races & the like masteries, he that was overcome, did gather some of the grasse of that place, & giue it vnto the conquerour, as a token that he did acknowledge himselfe conquered[n] this is the reason of that Adage, *Herbam dare*, that is, to yeeld the victory. Thirdly, *Corona civica*, which was bestowed onely vpon him, which had saued a cittizens life,[o] though in processe of time it was also bestowed vpon the L. Generall, if he spared a *Roman* citizen, when he had power to kill him. It was commonly made of oake; whence it was called *Corona quernea*. And this I take to be the reason why in *Ovids* time the Emperour had alwaies standing before his gates, an oake tree in the midst of two lawrels, as Emblems denoting two worthie vertues required in all Emperours and Princes, first, such whereby the enemy might bee conquered; secondly, such whereby cittizens might be saued. Vnto this *Ovid* seemeth to allude, speaking of the lawrell tree.

[n] Salmuth. in Pancir. l. rect. de perd. cap. de coronis.

[o] Pigh. l. Tyrannif.

¶ *Postibus Augustis eadem fidissima custos*
Ante fores stabis, mediamq; tuebere quercum.

[p] Ovid. Met. lib. Fab. 9.

Fourthly, *Corona Muralis*;[q] Hee onely was honoured with this, which did first scale the wals, and enter first into the enimies city: and hence this crowne was cut vpon the circlet or top like vnto the battlements. Fifdly, *Corona Castrensis*. This the L. Generall bestowed on him, which first entred into the enimies tents; it did beare in it the resemblance of a bulwark, or at least of the mound, wherewith the bulwarke was strengthned; which mound was called in Latine *Vallum*, and thence the crowne it selfe was often called *Vallaris corona*. Sixtly, *Corona navalis*, with which he was honoured, which first entred into the enimies ship in a battle vpon sea: it was portrayed with many ship-beakes called in Latine *Rostra*, whence the crowne itselfe was often called *Corona Rostrata*. That Roman *Hercules Siccius Dentatus* obtained almost all those seuerall rewards, and that each many times. Lastly, *Corona ovalis*, it was made of Mirtle-tree, the L. Generall

[q] Dion. Halicar. lib. 10.

[r] Pigh. l. Tyrannif.

[s] A. Gel. noct. Attic. l. 5. c. 11.

nerall vſed it in the leſſer kinde of triumphes called *Ouationes*, from whence the Coronet it ſelfe was named *Ovalis*. It was then beſtowed when the Herald had committed ſome errour in denouncing warre; or when the enimies conquered were of meane ranke and place, as Servants or Pyrats; or elſe if the victory were gotten without bloodſhed or great hazard, the enimies yeelding without reſiſtance. *In quibus impluuiis & incruentis victoriis, aptam eſſe Veneri frondem crediderunt, quod non Martium, ſed quaſi Venereum quidam triumphum foret.* A. Gel. l. 5. c. 6.

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